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THE

# MEDICO-LEGAL JOURNAL

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*Published under the Auspices of the Medico-Legal Society of New York.*

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VOL. X. -

NEW YORK :  
MEDICO-LEGAL JOURNAL.

1892.

422406  
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# THE MEDICO-LEGAL JOURNAL.

A Quarterly devoted to the Science of Medical Jurisprudence,

PUBLISHED UNDER THE AUSPICES OF THE MEDICO-LEGAL SOCIETY OF THE  
CITY OF NEW YORK.

This Journal will publish the leading papers of the Medico-Legal Society, and a resume of its transactions. Its columns will at the same time be open to contributions from all sources and from all parts of the world, on appropriate subjects and questions. It will endeavor to chronicle interesting facts and scientific deductions within its domain, and keep a record of current events, especially in the trial of cases in the courts which involve Medico-Legal questions.

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## ERRATA.

Page 1, under portraits, "Judge William H. Stewart" should read "Gilbert H. Stewart."

Page 5, 21st line from bottom, "haads" should be "hand."

Page 97, 10th line from top, "he" should be "she."

Page 99, 10th line from bottom, "Garshainstown" should be "Grahamstown."

Page 101, foot of page, "Dawbane" should read "Dawbarn."

Page 110, "Judge William H. Stewart" should read "Judge Gilbert H. Stewart."

Page 134, 6th line from top, "organized" should read "oxidized."

Page 207, 10th line from top, "Rogers" should read "Requa."

Page 221, 9th line from bottom, for "Fleming" read "Fleming."

Page 241, under group, for Ex-Chief Justice A. E. "Waite" read "Wait."

Page 284, 14th line from top, "Dr. Vlemwickx" should read "Vlemnickx."

Page 297, 16th line from top, "ornamental" should read "omental."

Page 299, in roll of members of Congress, "Ed. J. Cowles" should read "Edward Cowles."

Page 326, "Senator Thomas Roussell" should read "Senator Theophile Roussell."

Page 331, 13th line from bottom, "Irish, English" should read "English, German and Irish."

Page 331, 9th line from bottom, for "Saffield" read "Suffield." Same line, for "Milliston" read "Williston."

Page 332, 14th line from bottom, for "Sungate" read "Surrogate."

Page 332, 13th line from bottom, for "and were" read "yet he was."

Page 332, 8th line from bottom, for "Daily" read "Dailey."

Page 345, last line on page, for "step" read "ship."

Page 347 for "Searcey," wherever it occurs, read "Searcy."

Page 352, for "Ed. J. Cowles" read "Edward Cowles."

Page 353, for "Snearingen" read "Swearingen."

Page 353, for "Searcey" read "Searcy."

Page 359, 13th line from top, "sience" should read "science."

Page 444, 5th line from top, "with that nobility" should read "with the nobility."

Page 444, 16th line, "especial sketches" should read "especial studies."

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# THE GREEN BAG FOR 1893.

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## MECHANICAL RESTRAINT IN THE CARE AND TREATMENT OF THE INSANE.\*

BY CLARK BELL, ESQ.

The report of the Edinburgh meeting certainly conveys the impression that the majority of the speakers approve of the use of restraint. But the practice of some of them scarcely bears out this theoretical expression of opinion. Thus Dr. Clouston applies restraint in surgical cases only, and where the suicidal disposition is exceptionally pronounced. Dr. Turnbull's practice is the same, but he distinctly states that he restricts the appliance in the suicidal cases to night. The form I infer to be always "locked gloves." Dr. Rorie only uses the "gloves" in "extreme cases," but he does not specify what these are. Now I have always understood that even Conolly fully allowed the use of mechanical restraint in surgical cases. I am inclined to think, too, that even though a medical superintendent orders a pair of locked gloves to the hands of a highly suicidal patient at night, the hands being otherwise free, in rare and extreme cases, *but only in such cases*, he may still be claimed among the supporters of non-restraint. But whatever opinion is entertained on this point, there can be no doubt that the position of at least Drs. Yellowlees, Urquhart, and Johnson is very different. As the views expressed by Dr. Yellowlees were fully endorsed by the two other gentlemen, we turn to him for an exposition of his opinions. These were put very definitely before the meeting. He thinks that the use of mechanical restraint is required in four classes of cases. I quote his words: "1. *In cases where the suicidal impulse is intensely strong.* I have no hesitation whatever in putting gloves on these patients for their own safety and the protection of the attendants in charge of them. 2. In cases of extreme and exceptional violence. I think the use of gloves often wise in such cases. Once or twice I have used side-arm dresses, although not for many years. 3. In extremely destructive cases. 4. The helpless and incessantly restless patients, who day and night roll about the room," etc. For the last class he recommends the "protection bed." This, as I saw it many years since in an American asylum, is a deep and narrow box-bed, with a sparsely red lid or cover. The patient lies on a mattress in the bottom of it, and the lid, which is locked, prevents him from rising into the erect posture.

It seems to me that a question of this kind can only be determined by results. Comparison should be made between asylums in which restraint is used to the extent advocated by Dr. Yellowlees and those where Conolly's principles are still in force—where there is a minimum of restraint. This can be best done by a candid statement of experience based on a long series of years. I shall do so myself, and at the same time invite Dr. Yellowlees or any other gentleman who may concur in his views to put his experience also on record. In order that the comparison may be as

\*Continued from page 399, Vol. IX, No. 4.

complete as possible, it seems advisable that the facts should be elicited by answers to a series of questions, as follows :

Q. What is the length of your experience ?

A. Three years as assistant, upwards of thirty years as physician-superintendent.

Q. How many patients are in your asylum ?

A. On an average for the first 25 years, 203 ; for the last five years asylum only licensed for 125 ; always full, often two or three beyond the complement.

Q. What is the average number of admissions ?

A. For 21 years, between 1863 and 1883, the average number of admissions annually was 79 ; from 1884 to 1888, inclusive, 46. Besides, during each of the last twelve years 34 patients were, on an average, admitted on what are known as "certificates of emergency," and accommodated for a period not exceeding three days, when they were removed to other asylums, the parochial asylum being full. These cases, being usually in the acute stage of their illness, add greatly to the responsibilities of the management.

Q. What has been the average proportion of recoveries, calculated on the admissions, say for the last ten years ?

A. 47.3 per cent.

Q. Is every kind of case admitted ?

A. Yes ; there is no selection.

Q. What was the weekly cost of maintenance in your asylum during the last financial year ?

A. 8s. 3/4d. This includes repairs and charge for rent.

Q. What is the proportion of day-attendants to patients in your asylum ?

A. One to 15.8 patients.

Q. What is your practice in the use of mechanical personal restraint ?

A. No strait jacket, or "side dresses," or anything of that kind has ever been used in my whole experience. Two patients suffering from surgical diseases, one 29 and the other 4 years since, were fixed to their beds by sheets and bandages till these ailments were cured. In a surgical case, at present, one glove is in use. In a small number of highly suicidal cases I have ordered locked canvas gloves at night, the hands being otherwise free. How rarely they are prescribed will be seen from the following list for the three years ending 31st December, 1888, which has been prepared from the statements of the attendants, corroborated by my own recollection, as no record was made ; April, 1886, gloves one night ; May, 1887, gloves one night ; May, 1888, gloves two nights. Two were cases of attempted suicide, the third was strongly disposed to suicide.

Q. What is your practice in respect of seclusion ?

A. It is seldom used. Five patients were secluded during 1888, the sum of all their seclusions being 31 hours. No one was secluded in 1887.

Q. Do you use guards of any kind for the windows or fires ?

A. The only guards in use are two nursery ones, quite open at the top, and simply hooked on at the sides. One is over the fire in a parlor where there are many epileptics, the other in the parlor for the most violent cases. There is no guard of any kind over any of the windows. The



windows are, of course, so fixed on the upper floors that they cannot be opened at the top or bottom above four inches.

Q. How many, if any, homicides have occurred in your experience?

A. None.

Q. How many, if any, suicides have occurred in your experience?

A. None.

Q. How many important injuries to patients have occurred in the course of your experience, in struggles either with attendants or fellow-patients?

A. In ten cases bones were broken, but all were simple fractures. No patient is known to have suffered permanent injury.

Q. How many, if any, attendants have been injured in your experience?

A. Two attendants have each had his shoulder dislocated, but it was easily reduced. These, and one or two temporarily stunning blows on the head, were by far the most serious occurrences. No one was ever permanently injured.

Q. What was the value of the clothing of all kinds destroyed in your asylum last year?

A. 7s. 6d.

Q. What was the value of the glass destroyed in your asylum last year?

A. Not more than 1s.

Q. What have been the usual entries of the Commissioners in their reports respecting the order and quietude of your asylum?

A. Both have been stated to be satisfactory. There is, of course, occasionally some noise and excitement in the department for the acute cases.

These details have been obtained by careful examination of the books of the establishment in the hands of Mr. Laing, the Governor of the Asylum and Poorhouse, to whom I am indebted for the trouble he has taken in this inquiry, as well as for his co-operation in the management, especially during late years. The results I believe to be creditable to the principle of non-restraint. I was trained in its practice by my late respected master and friend, Dr. Alex. Macintosh, of Gartnavel Asylum, and I have not yet seen any reason to modify my high appreciation of its wisdom and value. However, we must wait till those who favor the more extended use of restraint tell us their results before determining the question. Meanwhile, any who are in doubt may refrain from arriving at a conclusion.

I may be asked: What are your methods of treatment? I answer: "Nothing special, simply careful individualization—studying and applying the indications of management and treatment in each case—work, outdoor exercise, careful dieting, amusements, and medicinal treatment." In reference to the last of these, I refuse to admit that when a patient is soothed by medicines fitted to allay the irritability of a brain in a state of disease, I am employing "chemical restraint," at least in the offensive sense attached to the expression by some, and especially by those who favor mechanical restraint.

I have only further to express my regret that in this communication I

have been obliged to name gentlemen whom I count among my personal friends. But all personal considerations must be sunk in view of the importance of the question under consideration. Especially do I regret that I have been constrained to refer particularly to Dr. Yellowlees. It is simply because he initiated and took by far the most important part in the discussion at Edinburgh, and is at present the leader in Scotland of what I believe to be a distinctly retrograde movement. He would do well to remember when advocating the cause of restraint or about to order the application of the "side-arm dresses" or the use of the "protection bed," that there is a plate on the foundation-stone of Gartnavel Asylum bearing an inscription which declares that the asylum is erected on the principle of "EMPLOYING NO MECHANICAL, PERSONAL RESTRAINT IN THE TREATMENT OF THE PATIENTS."

For the present this will give an introduction to the English discussion of 1888, to which we may again refer. But meanwhile it might be well to see what the practice and sentiment has been in English asylums, where the discussion arose, to which I shall cite a few leading British superintendents.

Dr. CAMPBELL, superintendent of the insane hospital for Cumberland and Westmoreland, in his report for 1888, published in the July number of the *Journal of Mental Science*, p. 248, states :

"That during the year he had two such exceptional patients; that he had to seclude one, a patient who was so powerful and violent for several periods, and the other a feeble melancholiac, who made such persistent and varied attempts to kill himself that he used mechanical restraint for a long period, and who even then bit off his lower lip as far as he could reach it with his teeth."

Dr. Campbell says of the latter :

"This is only the second patient whom I have had to restrain for other than surgical reasons during the past fifteen years."

The experience of Dr. HOWDEN, of the insane asylum at Montrose, who has had a very large and varied experience, as reported by him and cited in the October *Journal of Mental Science*, 1889, p. 429, is of great value in such a discussion as the present.

Dr. Howden says :

"It is better, I believe, as a rule, to treat excitement by good hygienic conditions, good food, unpolluted air, suitable clothing, abundant exer-

cise, and even hard work, combined with mental occupation and distraction, than to attempt to repress or conserve energy, whether by mechanical or therapeutic restraint.

"A day's labor, whether on the farm, in the washing house, or scampering on the grass, is a better hypnotic than any narcotic drug with which I am acquainted.

"While expressing this opinion, I am far from ignoring the value of narcotics and of the necessity of employing mechanical restraint in certain cases. \* \* \* \* \*

"While maintaining perfect freedom of action, however, unaffected alike by fashion and public prejudice, we must not forget the errors into which our forefathers fell, through prejudice and superstition, though they were probably actuated by motives as humane as we are, nor lose sight of the great principle of non-restraint, (falsely so called,) established by Pinel, Tuke, Hill, Conolly, and others, which has revolutionized the treatment of the insane, so that the modern asylum has the character and aims of a hospital and a sanitarium, rather than a prison or a poor-house."

Dr. Howden adds, referring to the criticisms made in the public press regarding the alleged improper use of restraints in Bethlehem Hospital the year before, and the defense of the system by Dr. Yellowlees before the British Medico-Psychological Association, which is quoted by Dr. Yellowlees in reply, the following:

"In view of the discussion which took place last year in medical circles and in the public press on the use of mechanical restraint in the treatment of the insane, it may not be amiss to place on record a summary of my own practice during a period of thirty years, as a contribution to the subject. In doing so I shall consider seclusion as well as mechanical restraint, 1st, because they are often employed vicariously and conjointly, and, 2d, because I consider that seclusion in a dark room during the day is often a much more objectionable form of restraint than the use of mechanical means for restraining merely the muscles and the hands.

"Well, during the past thirty years 4060 cases have been under treatment. Of these, 29 men and 26 women have been subjected to the restraint of the strait jacket.

"The reason for employing mechanical restraint with these 55 persons was, in five cases, to prevent injury to the patient or others during attacks of exceptionally violent mania; in nine cases, to prevent self-mutilation and suicide; while, in the remaining forty-one, it was used to prevent the removal by the patient of dressings in surgical treatment."

Dr. Howden also adds, regarding the use of locked gloves under the Scotch system of "Register of Restraint and Seclusion to prevent babies from sucking their thumbs and

patients from pulling out their hair or picking their faces or head with their nails, that, searching, he finds—

“In the old daily register, however, there was, and I find entries of, the employment of locked gloves in the cases of three men and one woman, for a total period for the four of 150 hours, during 20 years.”

As to seclusion, the doctor makes the following statement, and these reports are of great importance to show the almost entire abolition of mechanical restraint, and seclusion as well, which places the question of its abuse wholly out of question :

“As to seclusion, I find that the number of persons who have been locked into a single bed room during the day in thirty years, was in all 106, of whom 38 were men and 68 women. During the first decennial period, from 1859 to 1869, there were under treatment 1740; of whom six were restrained, and ninety-one secluded. During the second decennial period, from 1869 to 1879, there were under treatment, 1526; of whom seventeen were under restraint, and seven were secluded. During the third decennial period, from 1879 to 1889, there were under treatment 1683; of whom thirty-two were restrained, and eight were secluded.”

DR. THEODORE DILLER was entitled to reply to the discussion of his paper the evening it was read, and did so orally. At my request he submitted a revise of his remarks, which is as follows :

MR. PRESIDENT :

Let me attempt to analyze and classify the expressions of opinion which we have heard.

I think all who have spoken are agreed upon certain points, viz : That if mechanical restraint is ever applied, it ought to be used only by medical men ; that it must never be applied to punish patients, to keep them quiet, or to save trouble for officers or attendants.

The various differences of opinion might be classified under three heads, as exemplified in the practice and views of Drs. Bryce, Pilgrim, and Godding, each of whom has a large number of patients under his care.

1. Dr. Bryce has not restrained a single patient for many years. He admits that cases may occur where restraint would be for the highest good of the patients, but he would not restrain such patients principally or wholly because he holds that the possible benefits which might accrue to those so restrained would be more than counterbalanced by certain baneful effects or impressions produced upon themselves or upon other patients by the restraint.

2. Dr. Pilgrim has not restrained a single patient for a long time, but admits that cases might arise where this measure would be advisable, and would not hesitate to apply restraint in such cases.

3. Dr. Godding lays stress upon the doctrine, taught by Butler, that an insane person requires individual treatment, just as an individual sick from any other disease. In carrying out this idea, he believes that he has served the best interests of certain of his patients by mechanically restraining them in a proper apparatus at certain times.

The burden of my argument will be an endeavor to show that, of these three views and methods of practice that of Dr. Godding is the correct one.

Between the views of Dr. Bryce and those of Dr. Pilgrim, neither of whom restrains patients, there is a great and vital difference. Both these gentlemen admit that patients might be placed under their care whose interests would be better served if they were mechanically restrained than if they were not so restrained. Dr. Bryce *would not*, but Dr. Pilgrim *would* restrain such patients, the former giving as the reason for his views that the few ought to suffer for the good of the many.

There is also a difference between the views and practice of Dr. Pilgrim and those of Dr. Godding. The first-named gentleman, as a matter of practice, has not used restraint; the last-named gentleman applies mechanical restraint to certain of his patients. Each of these gentlemen believes he is best serving the interests of each and of all his patients with regard to his course of procedure in this matter of mechanical restraint.

From this review I think it must be apparent to all that, although Dr. Pilgrim's practice is substantially in accord with that of Dr. Bryce, yet there is far more harmony in views as to the principles involved, between Dr. Pilgrim, who does not restrain, and Dr. Godding, who does restrain, than there is between Dr. Pilgrim and Dr. Bryce.

I am glad that Dr. Bryce has expressed himself so clearly. Certainly we know just where he stands. His views, I am glad to find, are shared by no one who has been heard to-night. I must say that I regard these views not only as extreme, but as containing in them great possibilities of danger; and I cannot help feeling that Dr. Bryce is moved to hold them largely for sentimental reasons. Evidently he takes a great pride in the showing his asylum has made in the past ten years. Even if an extraordinary number of difficult and trying cases were to be brought to him for treatment he would still carry out his non-restraint policy. Why? Because, I fear, "non-restraint" has become a watch-word or a dogma with him; because he would not care to have a blot on his unbroken record of "absolute non-restraint."

There is in London (and, if I mistake not, in Chicago also,) a so-called "temperance hospital," which was founded and is maintained by those who believe that alcohol should never be used as a therapeutic agent; that its use is always wrong; that it is an evil *per se*; that it should never be given to any person, sick or well. In short, they contend that any disease is better treated *without* than *with* alcohol. This hospital is, I believe, well conducted generally. Its annual report makes a seemingly excellent showing, yet, without knowing anything as to the details of its workings, I make bold to opine that certain of the patients treated within its walls would have been better treated had they received appropriate amounts of alcohol. It seems to me that this boycotting of a certain means of treatment by this temperance hospital which is sanctioned by the over-whelm-

ing sanction of the medical profession, is quite analagous to Dr. Bryce's boycott of another measure of treatment in the hospital of which he has charge. In each of these hospitals a certain means of treatment which is sanctioned by an overwhelming consensus of opinion of the profession is proscribed, largely or wholly for sentimental reasons.

Aside from Dr. Bryce's views, the expressions of opinion which we have heard seem to me to be pretty evenly divided between those who share Dr. Pilgrim's views and those who share Dr. Godding's views. This difference I believe is not irreconcilable—for it is a difference of measure or amount only, and not of kind or principle. I am quite willing to subscribe to Dr. Chapin's view that it should be the endeavor of all physicians who have charge of insane patients to constantly endeavor to use less and less restraint, but never to accept "non-restraint" as a dogma.

It has often been said that restraint is a dangerous thing; that it is too powerful and dangerous a measure to be placed even in the hands of asylum superintendents—much less in the hands of assistant physicians, supervisors, or attendants; that there is constant danger of its over-use, i. e., abuse; that in spite of all that can be done to prevent, attendants will fall into the way of using it without orders from physicians; that restrained patients exert a pernicious moral influence upon other patients about them; that a restrained patient feels a terrible sense of degradation; that almost always other measures of treatment are better or at least just as good.

The asylum superintendent has power over his patients, down to the smallest details of their lives. He must necessarily come in conflict with their wishes or inclinations many times and in many respects. He must, at times, refuse one patient his jewelry; another, his shoes; another, linen table cloths and china plates; another, he keeps in-doors; another, he holds firmly on a mattress and forcibly injects poisonous drugs into his tissues or pumps fluid nourishment into his stomach against the patient's earnest protest; he may cause another to be bathed against his will or secluded in a room. Any or all of the above measures may be used by the superintendent or assistant physicians. They are all measures of restraint, if you please. Certainly they may be called means of treatment (or therapeutic measures). No one gainsays the propriety of their use in appropriate cases. But, mark you, one other measure of restraint, one other means of treatment—mechanical restraint—is wrong *per se*; it is such a dangerous thing in itself that it cannot be trusted in the hands of the superintendent, who presumably is strong enough and wise enough and humane enough to rightly use all these other measures of restraint or means of treatment I have mentioned and many others. Surely this is a *reductio ad absurdum*.

The correct position seems to me to be this: That mechanical restraint is a measure of treatment, a remedy of peculiar value—one which, in certain cases, cannot be supplanted by any other from which an equally good result can be obtained. It is a dangerous remedy; the appliances for administering it should be locked up as safely as the hyoscine or chloral, and no one, other than the physician, should administer it any more than he should these other two dangerous remedies. Like all other powerful remedies, such as morphia, chloral, and alcohol, restraint has been too

much used and abused by some physicians. The abuse of opium in physicians' hands has wrought far greater harm than has the abuse of mechanical restraint. Yet, in spite of this fact, the use of opium should not fall into complete desuetude—no more should mechanical restraint.

In treating his patient, a physician who has charge of the insane ought to use therapeutic measures as a skilled mechanic uses special tools—use the right remedies for any given disease and be ever ready to withdraw any measures and add others, as may be called for by the varying manifestations of the disease. At one time it will be a duck dress; at another, 1-100 grain of hyoscine; at another, seclusion; at another, piano-music or dramatic entertainment; at another, restraint; at another, open-air walks; at another, farm work. What would be thought of the carpenter who had a confessedly useful and effective tool and yet would not trust himself to use it? Yet this is the position of those who hold to "absolute non-restraint" as a dogma.

It has been said that the presence of a restrained patient has a baneful effect upon the other patients about him. It must be admitted that there is some truth in this statement. Yet, after all, there is no very great force to this objection, for a restrained patient would, of course, not be in the same ward with mild patients or convalescents, but would naturally be placed in a ward containing the violent or the chronic insane by whom the niceties are little or not at all appreciated; and in these wards other sights may be witnessed (epileptic fits, e. g.), which would have quite as much or more deleterious effect upon the patients in the ward than the sight of a restrained patient.

Now, as to the sense of degradation which restrained patients themselves experience. In some patients (e. g. demented), this feeling is *nil*. In others, where the feeling is experienced, likely the patients do not rebel against restraint as a personal indignity nearly so much as being compelled to receive forced feedings or hypodermic injections.

Very often, perhaps generally, it is better to seclude a patient than to restrain him. But in some cases seclusion cannot be used in lieu of restraint, if the best interests of the patient would be served. I will mention a few illustrative hypothetical cases. A chronic maniac suffers from a fracture of the humerus, and will not permit the surgical dressing to remain on his arm. A paranoic, under delusive promptings, makes persistent efforts to pull out his rectum or castrate himself; an epileptic, while in the post-epileptic state constantly picks his arms, producing horrible raw surfaces; a violently suicidal patient makes not only persistent attempts to take his life, but also constantly tries to injure or mutilate himself; a patient suffering from acute delirious mania (typhomania), would use up his little remaining strength, all of which is precious to him, in order to carry him through the crisis, by unceasing muscular activity. In such cases as these I think Drs. Meredith, Chapin, Hill, Trowbridge, or Godding would use mechanical restraint. In such cases I, myself, have used it.

One matter more, and I have done. Dr. Blumer (the successor of the honored Gray, of Utica, who used restraint as needed), says that he does not restrain patients, and immediately adds, with almost a "therefore," that this is a closed question; that my letter is simply useless verbiage;

that what I have said has been said very, very often. These are indeed strange views, especially coming from the source whence they do. I think Dr. Blumer's views will find no responsive echo among the members of the Medico-Legal Society, composed of men and women who recognize the great principal that no question is a closed question upon which men honestly differ. I am quite as well aware as Dr. Blumer that the question has been many, many times discussed. I also know—perhaps *better* than he—that it will be many times yet discussed before it will, in truth, become a “closed question.” If I am not endowed with but little eloquence as compared with Dr. Blumer, I feel sure that my honest attempt to express my opinion upon this subject will at least be respected, while Dr. Blumer's attempt to dispose of me and of my views with a sneer will be held in just and merited contempt, and, I trust, their author charitably pitied. This would be true, even if I were in a hopeless minority. But it is all the more true when you consider the large number and the great eminence of the men who hold the views for which I have contended in this discussion. These views, it was found, were held by nearly every man who attended the large meeting of British alienists held in Edinburgh so recently as 1899. The men whose views are essentially the same as my own are too numerous to mention, nor could I call to mind a tenth of them just at this time. But among them are the great Yellowlees, Savage, Godding, Trowbridge, Chapin, Meredith, Hughes, Prince, Curwen, Hill, Talcott, Lyon, Parker, Moncure, and Dewey.

In closing I wish to thank Mr. Clark Bell for opening this discussion on so broad a scale, and to express my firm belief that distinct good will come from it. It will be better known hereafter than it ever was before, that the overwhelming consensus of opinion of alienists in the United States is that inflexible adhesion to the rule of absolute non-restraint as a dogma is a short-sighted, illogical, and unscientific policy—one which ought not and cannot be maintained.

Dr. ALEX. ROBERTSON, M. D., F. F. P. P. and S., physician to the Royal Infirmary and City Parochial Asylum at Glasgow, to whom I lately wrote for his views upon the subject, but who had not seen the prior discussion, responded as follows:

I have pleasure in complying with your invitation to express my views on the use of mechanical restraint in the treatment of the insane. You mention that there has been a correspondence on the subject in the MEDICO-LEGAL JOURNAL, and that you had posted a copy of the JOURNAL containing it to my address. I regret, however, that it has not come to hand, and I therefore write without knowledge of what has been stated by those gentlemen who have already taken part in the discussion.

I more willingly accede to your wish from the fact that in the year 1868 I visited a large number of asylums in the United States and Canada, and then became acquainted both with their merits and demerits. The “notes” of my observations were published in the *English Journal of Mental*



*Science* for April, 1869, and I added to them as an appendix a short abstract of the late Dr Willard's report on the condition of the insane poor in the workhouses of the State of New York. At that time their care and treatment in all respects, in most cases, were very bad in these establishments. Since my visit of that year I know that great improvements have been made in the provisions for that unfortunate section of the community, both by the transference of many of them to new and well appointed asylums, and also by the adoption of more kindly and humane methods of treatment.

Among the reforms which have brought the asylums of America to the front rank of such institutions throughout the world—at least in my opinion—is the almost complete disuse in many of them of the instruments of restraint. However, I gather from your letter that in some they are still largely used, and that those medical superintendents who employ them fortify their position by quoting the opinions recorded in favor of restraint by certain British physicians, notably Dr. Savage in England and Dr. Yellowlees in Scotland.

It was with a mixed feeling of surprise and regret that about three years ago I learned that these gentlemen, physicians in the land of Tuke and Connolly, advocated so retrograde a measure and carried it out in their practice. Their action has, I believe, been prejudicial to the best interests of the insane in this country, and, as they might have anticipated, has so far, but I trust only temporarily, checked the movement for the further amelioration of their condition in the New World.

My own acquaintance with the fact that mechanical restraint was somewhat freely used in some of the asylums of this country was derived from a report of a meeting of Scotch asylum Superintendents in November 1888, which was published in the *Journal of Mental Science*. Dr. Yellowlees, of the Glasgow Royal Asylum, took the leading part in the discussion and spoke strongly in favor of the use of mechanical restraint, defining four classes of patients to whom he considered its application was proper and legitimate. Though there was a general theoretical concurrence in these views by other speakers, I was glad to find that some of the more experienced in their practice really exceeded only by a very little the sanction of Connolly, the great apostle of the non-restraint system. Thus Dr. Clouston, who has charge of the most important of our Scotch Asylums, stated that he used restraint only in surgical cases and where the suicidal disposition is exceptionally pronounced. I was not present at the meeting, but on perusing the report of it I felt that the practice commended by Dr. Yellowlees more especially, was so opposed to my own, and was so calculated to affect injuriously the treatment of the insane that it was incumbent on me to record the result of my long experience and the conclusions at which I had arrived. Accordingly I drew out a statement in detail, which was published in the *Journal of Mental Science* for April, 1889.

In the exposition of my position on the question I cannot do better than give a short résumé of that paper. It appeared to me that in estimating the value of mechanical restraint the most exact and convincing test was that of results. Therefore, in the form of question and answer, I submitted all my experience as physician-superintendent of an asylum extending over

a period of thirty years, which in any way bore on the subject, without any reserve. An idea of the method pursued will be formed from the following quotations: (The letter of Dr. Robertson contains the questions and answers contained in the paper published in the *Journal of Mental Science*, which is published heretofore by me.)

In this way in addition to these points, I showed the following as the results of my whole *whole experience*:

1. Though there are no guards of any kind for the windows or fires, except two nursery ones open at the top and simply hooked on, the value of the glass destroyed during the whole of "last year" (1888) was only one shilling, and of clothing of all kinds seven shillings and six pence.

2. The proportion of recoveries calculated on the admissions for the last ten years was 47.3 per cent.

3 The proportion of attendants to patients was one to 15.8. (This is less than in asylums where restraint is somewhat freely used.)

4. That ten patients had suffered from broken bones, but all were simple fractures. No patient sustained permanent injury.

5. *There has never been either suicide or homicide.* (This still holds true, 2d April, 1892.)

6. That no attendant has been permanently injured. Though two have sustained dislocation of the shoulder, it was easily reduced. These and one or two temporarily stunning blows on the head were by far the most serious occurrences.

It will be evident that I cannot claim to have absolutely abolished mechanical restraint in my practice. Still the fact that it was used only in the form of locked and padded canvas gloves in a few intensely suicidal cases, and that several years sometimes passed without their being once applied, shows a near approach to complete non-restraint.

After detailing my experience as above explained, I invited any of the advocates of the freer use of restraint to record theirs in the same way. No one, however, up to the present time, has chosen to do so. Dr. Yellowlees certainly stated that for a number of years there had been no suicide in the asylum of which he has charge. But this had reference only to one of the many points referred to in my record, and even in regard to it his statement was restricted to a part of his experience. It seems a legitimate conclusion that on all other points, as well as on the remaining part of his experience in the one he adduced, he felt his position to be a weak one; in fact that, with the free use of restraint which he recommends, he was unable to submit so favorable statistics as I have done with all but complete non-restraint.

Possibly some of my American confrères who favor restraint may accept my friendly challenge. Should any one submit a better record than I have published, those who, like myself, adhere, or rather all but adhere, to the methods of Tuke and Connolly, may then reconsider their position. Meanwhile, even our opponents on this question must be constrained to admit that if the results of non-restraint are only equal to those of restraint the palm rests with the former. *A fortiori* if it is clear that the results on all points are much more satisfactory, then surely there is strong argument against the harsh and forbidding methods of restraint.

In June, 1883, Dr. ALICE BENNETT, then, as now, medical superintendent of the State hospital for the insane at Norristown, Pa., was requested by me to read a paper before the Medico-Legal Society of New York, upon the subject of "Mechanical Restraint in the Treatment of the Insane."

She had for a few years at that time introduced the doctrine of a total abolition of the use of mechanical restraint, and was one of the pioneers in the early movement in American asylums, some ten years ago, to make an earnest effort to see if it could be wholly dispensed with and still leave the condition of the inmates improved—a proposition that so few superintendents in the United States believed possible.

Her paper was read, and was published in the first volume of this journal, and, from my standpoint, exercised an enormous influence among superintendents of asylums, in inducing others to make the effort.

The asylum had a large population, drawn from all classes, and the effort which was then successful demonstrated that at least this institution had progressed and prospered without any recourse to mechanical restraint at all.

I can but feel that in this discussion some extracts from that paper will be felt by all earnest inquirers after the truth, in its application to the practical side of the question, to be valuable, timely, and deeply interesting. The whole paper is entitled, perhaps, to be included, but the scope of the article limits me to a few extracts. Dr. Bennett says:

I will ask leave to pass over the history of former discussions on this subject, interesting though they be, and speak to you only out of my own experience of what I have seen and known.

In a service of three years (lacking one month) in the State Hospital for the Insane of the Southeastern District of Pennsylvania, something over eight hundred female patients have been under observation. This experience, while confessedly short and inadequate, is yet believed to cover the usual variety of phases of insanity, and more than the usual proportion of the chronic, turbulent class so often the subjects of mechanical restraint. From the county alms-houses, where cases had been ac-

cumulating during the years when this District of Pennsylvania had no adequate provision for her insane, came a considerable number who had been habitually, for months—some even for years—subjected to some form of mechanical restraint. With a new and untried organization, inexperienced officers and subordinates—with the general barrenness incident to a new hospital, and the almost total absence of the usual devices for attracting, diverting, and occupying the large numbers that were literally poured into the hospital from all sides, it is believed that the conditions have been such as to offer a test more than ordinarily severe.

During the first fifteen months some little restraint was used experimentally. Since October, 1881, none has been employed. The results of the first three months' experience were given in the first official report of the Department for Women to the Board of Trustees, as follows: "Nothing is more certain than that mechanical restraint is incompatible with 'moral treatment,' and that resort to it destroys at once any personal influence that may be brought to bear. Whether a confession of fear on the part of the attendant, or a substitute for the latter's vigilance, it can hardly fail to lessen the bond of respect between patient and attendant, which it is essential to preserve."

And, again, a year later: "Extraordinary precautions often suggest or increase the 'violence' they are intended to prevent. Freedom of action is a wonderful tranquilizer. . . . When to these restless, rebellious natures leather bands and canvas jackets say 'you shall not,' the antagonistic spirit responds at once to the stimulus. The impulse to do the thing forbidden is likely to disappear with the removal of the apparatus which suggested it, and if judicious moral influences are brought to bear, will not return in any uncontrollable form."

Briefly formulated, my convictions, based upon experience, are as follows:

1. Mechanical restraint *does not*, (in the majority of cases,) "restrain."

[It is not easy, by any mechanical appliance, to so confine a person that he cannot accomplish something by muscular effort, and energy, checked in one direction, finds some other outlet, with the added impetus of resentment and desire for revenge.]

2. It *does* exert a positive influence for evil.

3. It is infinitely *easier, safer, and cheaper* to do without it.

From every point of view, then, in the interests of the insane themselves, in the interests of their keepers, and in the interests of public economy and of humanity at large, mechanical restraint should be abolished.

But we are again told authoritatively: "These principles have been settled; mechanical restraint *is* inadmissible in itself; it is to be used only when necessary and indispensable for exceptional cases."

Just what these "exceptional" cases are is not laid down; I have not seen them, and I need not tell you that this rule of necessity is apt to become a sliding-scale, adjusting itself to the convenience or caprice of the hour until the "exceptional" cases are likely to cease to be exceptional. Even admitting, (which I am far from doing,) the existence of the hypothetical, occasional case which may be benefited by restraint, I would

still hold fast to the principle of the "greatest good to the greatest number," and would unequivocally banish an agent which so certainly becomes a centre of evil influence.

And again:

You will agree that it is a not uncommon trait of our common human nature to want what is beyond our reach—to desire to do the thing forbidden. Especially is this true where the higher control of reason and of will is undeveloped, as in children, or in abeyance, as in the insane, who frequently are only "children of a larger growth."

Trust begets trust-worthiness; and the reverse is no less true.

Now if a person, (more or less insane, as the case may be,) sees every provision made for his conducting himself like a wild beast, I do not doubt that, in nine cases out of ten, he will proceed to justify that expectation. If, in addition to windows barred, screened, and locked, double doors, (perhaps even with the small sliding windows so suggestive,) heavy immovable furniture—surroundings calculated to arouse an antagonistic spirit—he is perhaps seized upon, and either because of what he has done, or of what some one fears he may do, his personal liberty is still further abridged by some of the many ingenious forms of mechanical restraint, what wonder that his evil passions rise and that he proceeds to do all the damage possible, and I assure you he can do a great deal; if his hands are confined he can kick, if his feet, he can bite, and both with a ferocity and accuracy of aim most undesirable.

You can easily see how such a case goes on from bad to worse. The restraint continues to excite and intensify the "violence," which, progressively increasing, becomes each day a stronger "justification" of the restraint, and so have been manufactured those notoriously desperate cases which are pointed out to curious visitors as having been "chained" or "caged" for years. Examples of these are, happily, less common than formerly, but the county alms-houses still furnish a few, and one such has come under my care even during the past year.

One who has watched the transformation of cases like these under the influence of personal liberty and rational methods of treatment can but marvel that a principle so plain, so evidently founded in the commonest laws of our common nature, should admit of discussion.

In support of the statement that it is easier and safer to control the insane by moral than by mechanical means, perhaps I cannot do better than to give you notes of some individual cases that have occurred in my experience:

Case 1 was introduced to us as a most dangerous character, especially renowned as a "kicker;" had been continuously restrained in another hospital by a leather "muff" for six months preceding admission. The propensity to kick everything and everybody within reach being a natural consequence of the confinement of her hands, it followed that the simple removal of the "muff" made her at once a less dangerous companion. By systematic, firm, yet kind, discipline, bad habits were corrected, self-respect stimulated, and she has become a tractable, working patient, although belonging to the hopelessly chronic class.

Case 2, an immensely powerful, muscular German woman, one of the first admissions to the hospital, brought with her a reputation for ferocity calculated to strike terror to the soul of the uninitiated. For months she had been chained in a dungeon, the limited space of which scarcely permitted her to lie at full length on her heap of straw. Through the grating of the heavy door was thrust the food, which she must eat as best she could, with hands confined. Here, also, the curious were privileged to gaze upon this monster in human form, who, with her hair long ago torn out by her own hands, and her expression of savage distrust and defiance, might well seem something less than human. A year ago I introduced a gentleman interested in public charities to this same woman, standing in the door of her neat little room, which she invited us to enter and inspect. Her thick gray curls surrounded a face strongly-marked and resolute, yet not unpleasant to look upon, and her general appearance was such as to attract a stranger at once.

She was led to speak of her former experience, "And *why* were you locked up in a dungeon?" asked my friend. "Because ——" but I can not repeat her language. At the mere recollection, a tithe of her old fury was aroused, and her mein hinted at the total annihilation of anybody in her path.

"But why did you have those feelings there and not here?" persisted the visitor.

"*Because they locked me up.* Would you like to be locked up like a beast?" came the answer, with an emphasis which was a whole sermon in itself. This patient also belongs to the chronic class, and is probably a "life-member" of our little community, but she is a busy worker, she has a quick, ready intelligence and warm affections, and her life is not altogether an unhappy one.

Case 3, on admission, had worn the camisole for a length of time. The proficiency this woman had attained with her feet was marvellous. To open and shut windows and make, (but more often to unmake,) beds was easy and her mischievous propensities knew no bounds. This case is a good example of the inefficiency of restraint. She has now largely recovered from her mischievous and destructive tendencies, but she, also, is a chronic, incurable case.

Case 4, a young girl of prepossessing appearance, transferred from a county almshouse, had been restrained, as to her hands, for several months previous to admission. "Too violent for women to manage," was the verdict of the man who had had exclusive charge of her during that time. Of this patient I have nothing to say, except that, from the time wristlets were removed, while she lived, (she died of phthisis two years later,) no reason appeared for such restraint. Hopelessly demented, she was yet tractable, grateful for kindness, and kissed the hands of the nurse who liberated her.

Less than a year ago a fire occurred in a county almshouse in the interior of Pennsylvania, and eighteen female patients were transferred to the hospital at Norristown. Of these eighteen, ten came in camisoles, not put on for temporary convenience only, as was testified by their

cramped white fingers, which some of them seemed to have forgotten how to use and only learned again by gradual steps.

Of these ten, one had her feet also shackled. Even with these precautions the two men who had her in charge were extremely careful, and cautioned others not to go near, saying "she bites." Blood-curdling recitals of the fearful deeds she had done, and would still do if left unbound, as in the previous cases, to me not wanting.

I first saw this woman on the second day after admission, (being away from home at the time of the unexpected transfer,) and was struck by her expression of suspicion and distrust. When asked to shake hands, she looked at me some seconds inquiringly, then slowly assented.

I have never witnessed anything more remarkable than the change that occurred in the expression of that woman's face in the days that followed. It is a matter for regret that they were not photographed. It is scarcely exaggerating to say that no ordinary observer would have recognized her for the same person. An epileptic for years, her mind was hopelessly impaired, but she manifested a childlike affection and gratitude toward all who showed her any kindness, and a cheerful smile became habitual. That less than a week was sufficient to effect this change must be considered evidence of unusual native gentleness and susceptibility to kindness.

The above are not exceptional cases selected for the occasion. All patients entering the hospital under restraint are at once released, and in no case has this treatment failed of good result. But I promised that it should be not only easier and safer, but also cheaper, to dispense with mechanical restraint. I mean not only that there will probably be less actual destruction of property under the tranquilizing influence of personal liberty, (the restraining apparatus itself is also costly,) but in a much larger sense. When this principle of treatment shall be understood and extended as it can be, we shall depend less upon costly external barriers. Buildings constructed upon the simplest plan will be amply sufficient if they are pervaded by the right atmosphere. Probably two-thirds of the insane in our hospitals could be kept without bars and locks.

And she concludes an admirable paper as follows:

Much depends upon the attendants, upon whom will devolve the carrying into practice of the spirit of the superintendent. They must be without preconceived notions, and should be intelligently interested in the principles they are carrying out. The insane must be made to feel that someone *cares* for them, and no counterfeit appearance of feeling, however plausible, will do. I do not believe the patient can be found so demented as to be insensible to the voice of kindness, and the influence of affection upon some of them is really wonderful.

Self-respect must be stimulated by respectful treatment, and by encouraging attention to personal habits of neatness, dress, etc. Perhaps this latter is more important among women. I recall now one patient who had been in habitual seclusion for a length of time, demented to a degree that rendered her apparently incapable of receiving an idea. Taken out of seclusion by interested attendants, she was found to be much influenced

by personal adornment. A white apron and necktie seemed to exercise a restraining influence not inferior to that of a camisole, and she was so much engaged in the contemplation of herself as to forget to do any worse mischief. I have often remarked a peculiarly tranquil atmosphere on Sunday morning, when the "best dress" has been universally donned. Employment for restless hands is, of course, important. This is especially useful in the case of those possessed of destructive tendencies. One old lady I remember, who was completely cured of a destructive habit of picking at her clothing by being set at work picking over hair for pillows, which she did well and apparently enjoyed.

I have found rocking-chairs to exert a sedative influence upon many, especially upon the excitable and those called "violent." In one patient this proved an excellent substitute for the amusement of tearing her dress.

Out of door exercise is often excellent treatment for excited patients, aside from the tonic influence of fresh air and sunshine. [And here I can not forbear digressing to say that I can find no place, nor use, for "airing-courts." In my experience the patients who go out oftenest, for the longest distances, and the longest time, are generally those from the most excited wards, and no class so much enjoys the freedom of the country.]

One thought comes to me in closing: There is no more inexorable law, nor one of wider application, than that "action and reaction are equal," each to each. A wrong done operates not only upon the receiver, but upon the doer also, and equally. Who will undertake to estimate the influence upon ourselves and upon the moral tone of the community at large, reacting from a system of repression operating upon a large class of our fellow men; a system calculated to crush out their feeble possibilities for good, to foster their baser instincts, and under which they have often sunk to depths of degradation and misery almost inconceivable?

Dr. WALTER S. FLEMING is medical superintendent of the King's County Insane Asylum at Flatbush, Long Island.

His views are as follows:

KINGS' COUNTY INSANE ASYLUM, FLATBUSH, L. I.,  
May 4, 1892.

CLARK BELL, Esq., Secretary Medico-Legal Society, New York.

*Dear Sir:*—Replying to your communication of April 30th, would say that I think there is a happy medium, which is preferable. Mechanical restraint is beneficial in surgical cases to prevent the removal of dressings, displacement of fractures, etc.; in other cases to prevent self-mutilation and destructive tendencies. In the great majority of cases, however, proper exercise, employment, amusements, change of attendants and surroundings, will render it unnecessary.

I think that restraint by attendants renders a patient more irritable, and that medicinal restraint, if used to any great extent, materially impairs the patient's physical condition.

Yours very truly,

WALTER S. FLEMING.



Dr. I. O. TRACY, assistant superintendent of the same institution, replies as follows:

KINGS COUNTY INSANE ASYLUM,  
FLATBUSH, L. I., May 6, 1892.

CLARK BELL, Esq., Editor of the MEDICO-LEGAL JOURNAL, No. 57 Broadway, New York City.

*Dear Sir:*—In reply to your communication of the 30th ult., I would say that, although I do not believe that mechanical restraint is ever an absolute necessity in the management of a case of insanity, I do believe that at times it is a useful adjunct to other means; and, when properly used, I consider it a perfectly legitimate and humane measure. Certainly it should never be used indiscriminately, at the discretion of attendants, but only upon the order of a physician, and should be ordered by him with the same care, and with the same regard to the requirements of the case, that he would order a drug; and when so used I think there is as little danger of its use being abused as there is of either physical or chemical restraint.

Yours very truly,

I. O. TRACY.

Dr. STEPHEN SMITH was for some years State Commissioner in Lunacy of the State of New York before the passage of the present law creating a Board of Commissioners. His reply as to his views is as follows:

NEW YORK, May 5, 1892.

CLARK BELL, Esq.

*Dear Sir:*—Dr. John Connolly, of England, the pioneer in the abolition of mechanical restraint, and in substituting the personal care of an attendant, affirmed that the effect of a struggle of an insane person with an attendant was infinitely preferable to a struggle with mechanical appliances. In the former case the patient, when overcome, is subdued, often penitent, and usually regards the attendant with respect and sometimes with affection. But the mechanical appliance simply creates irritation and engenders a spirit of revenge. This statement once seemed to me absurd, but I have had abundant opportunities to see its truth verified.

I began visiting institutions for the insane officially during the period of transition from the extreme employment of mechanical restraint to its almost entire abolition. I saw patients at one time in straps, strait jackets, cribs, manacles, and at another free from all such appliances, but in the immediate care of an intelligent and competent attendant. The change was often remarkable. I could relate many instances like this: In one asylum I found a woman, on repeated visits, confined in a remote room, and tied, hands and feet, to the bed. It required several attendants to change her clothes, and only on such occasions was she released. On a subsequent visit I found her among the other patients, neatly dressed, quiet, and orderly. A new attendant on the ward explained the reform. On her first visit to the room of the patient she removed all restraint, gave her a bath, put on a new dress, brought her out upon the ward, and there

was no further trouble. The attendant stated that the patient at first resisted her violently, and, with oaths, threatened her life, but she seized her with such force that, after a brief but ineffectual struggle, she yielded, and quietly obeyed every command.

In a State asylum where mechanical restraint had been abolished, I witnessed a violent struggle between a powerful woman patient and a very slight attendant, but of remarkable agility. To my surprise the attendant succeeded in overcoming the patient. I questioned the attendant afterwards in regard to her experience with and without mechanical restraint. She said she much preferred restraint by attendants, for their influence over patients was greatly increased by these direct personal efforts to control them. Dr. Connolly was right in his assertion, so far as relates to those insane who still have sufficient mental capacity to appreciate their surroundings.

But there is a class of insane so maniacal, or so demented, as to be susceptible to no personal influence, and yet they injure themselves or others, or destroy clothing, when unrestrained. With these the use of such mechanical appliances as so control the use of their hands that they can do no harm is a necessity. Again, there are insane so feeble that they must be kept in a recumbent position to effect a cure, and yet who persist in standing or walking. Confining such patients in bed by such simple means as a sheet covering their bodies and fastened to the bedstead, as at the Homœopathic Asylum, is greatly preferable to the constant efforts of an attendant. The Utica crib was severely condemned, and yet I have seen many a feeble patient restored by being compelled, while in it, to retain the recumbent position.

Whoever enters an asylum ward and attentively examines the insane, readily discovers that some require the restraint of an attendant, others of padded gloves, or appliances that prevent too free use of the hands, and others must be confined to bed. While it has been abundantly proved that mechanical restraint has been so employed as to be harmful to the insane, it has been equally demonstrated that the treatment of the insane without such appliances has resulted in severe injuries to themselves and others.

The correct position to assume in the use of restraint of the insane is midway between the two extremes. Every case should be treated according to its own peculiarities. In general, it would be wrong to apply a strait-jacket continuously to a patient who could appreciate his condition and be influenced and controlled by an attendant, and it would be the height of folly to require an attendant to hold an imbecile's hands all day to prevent him from destroying his eyes, or to sit by the bedside of a feeble patient constantly, to keep him in a recumbent position.

Truly yours,

STEPHEN SMITH.

Dr. C. K. BARTLETT, superintendent, of many years' asylum experience, now medical superintendent of the Minnesota State Hospital for the Insane, at St. Peter's, Minn., replies:

HOSPITAL FOR INSANE, ST. PETER'S, MINN.,  
May 6, 1892.

CLARK BELL, Esq.

*Dear Sir:*—Yours of the 30th ult. was misdirected, and went first to New Hampshire, and came to me last evening. I fear my statements will be too late for your service, but may, nevertheless, be of little importance to the subject. I have read and heard many discussions concerning restraint and non-restraint; but they have always appeared to me nearly useless, from the fact that different persons argued from dissimilar standpoints and widely different facts and circumstances. I am satisfied, from personal observation in this country and abroad, that the same persons who advocate non-restraint in one hospital, if placed in some other, would quite as firmly favor and use restraint. A man given unlimited room, unlimited means, unlimited and experienced help, and a class of patients all of one nationality, might find it easy to manage his patients without restraint; while, if placed in charge of another—overcrowded, consisting of a dozen different nationalities, with limited means, limited help, and that mostly untrained and inexperienced, would be strongly inclined to support the system of restraint—to save expense, to prevent damage and avoid serious accidents from the conflicts liable to arise from the prejudices of nationalities. No humane man will sleep quite soundly while he knows there are two and three men sleeping together in the same room, without any form of restraint, if he has reason to suspect either one is liable to sudden excitement of a homicidal nature. With an experience of ten years in an eastern hospital and nearly twenty-four in this, I am not ambitious to be known as an advocate of either restraint or non-restraint; but believe in the judicious use of some form of restraint for special cases, and that *no other* kind of treatment will accomplish equally good results. Take, for instance, a case inclined to stand up night and day—exhaustion and death will as surely follow as night will succeed day, and at no distant period; but compel the patient to remain in a horizontal position, and recovery will be the result. I have seen too many cases of this form of insanity recover under mechanical restraint to doubt its propriety or its beneficial effect. I would write more, but think it unnecessary, as the letter of Dr. Ralph L. Parsons, of Greenmount, N. Y., so nearly expresses my sentiments on the matter under discussion. He has had extensive experience, and takes a broad and sensible view of the whole subject.

Respectfully yours,

C. K. BARTLETT.

Dr. H. A. BUTTOLPH, one of our oldest asylum superintendents in the service, for many years superintendent of the New Jersey State Asylum, at Morris Plains, writes as follows:

SHORT HILLS, New Jersey, May 7, 1892.

CLARK BELL, Esq.

*Dear Sir:*—Agreeably to your request, I send you "short notes" of my views in regard to the use of mechanical restraint in the treatment of the

insane in institutions for their care and cure, if curable, or, if otherwise, for their own and the safety and welfare of those with whom they are associated. Preliminary to this, however, it seems proper to state, for the eye of the general reader, that a very large proportion of the inmates of every well-planned, equipped, and managed modern institution, not overcrowded, enjoy greater freedom in many respects than while residing in their own private homes.

With regard to those who require additional restraint to that imposed by the building in general, it should be alike the duty and privilege of the physician in charge, in justice to individual patients, to order that form and degree of restraint, whether manual, mechanical, or chemical, or all combined, that he regards as best suited to fulfil the indications of the case, and without reference to any policy or practice relating to the inmates of the house in general.

So important is it that the medical officer be allowed to exercise his own judgment and freedom in the treatment of those under his charge, that it could not, with justice, be said by or of him—as reported in certain quarters—that he was the only person in the establishment whose *head* and *hands* were alike under *restraint*.

Sincerely yours,

H. A. BUTTOLPH.

Dr. BUTTOLPH's letter illustrates the most objectionable form in which the advocates of restraint can place the question.

In acknowledging it, I said to the good Doctor, who is a humane and kind-hearted physician, and who would be most judicious and considerate from his own standpoint in applying mechanical restraint, that the basis suggested by him of leaving it to the individual discretion of the superintendent was, to me, the worst possible criterion that could be devised."

It is doubtful if any of the superintendents who chained and manacled the insane, confined them in dungeons, and treated them like wild beasts, for one moment ever considered but that they were doing what was absolutely and indispensably necessary for the safety of the inmates and for the best interests of the insane.

It was the *intelligence*, the *Savoir faire* of the superintendents, who, in their discretion, conscientiously made the insane undergo all the horrors that Connolly and Pinel helped to

abolish, that these grand men assailed, not their conscientiousness, not their humane considerations.

Men like Dr. Buttolph are like the keepers in the Bicêtre when Pinel knocked off the manacles. These were good men, humane men, but erring and misguided men, and they did not know what could be done by other means, other methods, till the light of Pinel's action illumined the paths.

Dr. Buttolph felt the force of this criticism and sent in response the following reply:

SHORT HILLS, N. J., May 9, 1892.

*Dear Sir:*—Replying to yours of this date, I would say that I, at first, wrote at considerable length on the subject of special restraint, for certain conditions and cases of insanity, in illustration and justification of a principle. Finding that I had exceeded your permission to give "short notes," I laid my paper aside and expressed in brief the principle that should govern a medical officer in charge of an institution for the insane, assuming, of course, that he is carrying out the principle in detail. An *intelligent, humane* physician, near the close of the century, would not ignore the progress made since its beginning.

To give a single instance, in illustration of the propriety of the rule, I suppose the case of a female in an advanced stage of puerperal mania, who is still able, from high nervous excitement, to manifest unusual strength. The obvious indications are to save the strength of the patient by preventing exhausting effort and securing rest in sleep. To accomplish these objects, she should be placed in a recumbent position, which should be maintained with little interruption for hours, possibly days and nights, in succession, according to the necessities of the case, on account of general weakness. This would be done for the patient by attendants usually after having had a warm bath, during which cold water should be applied to the head, to equalize the circulation between the body and brain, and to lessen general excitability.

Should the patient readily yield to the use of these simple means, the necessity for the use of more forcible measures may, to a great extent, be obviated. In another case, however, the patient may, under the influence of high excitement and active delusions, resist the efforts of several attendants to place her in bed, which being done, a prolonged struggle follows to keep her there, during all of which she, perhaps, resists, under the impression that she is being attacked with murderous intent. In the meantime the physician has prescribed the kind and amount of medicine deemed suitable and safe, in the circumstances, to be administered, as heroic treatment in such condition is seldom admissible. At this stage the manual effort to retain the patient in bed having failed, a resort may be had to some simple mechanical means, to which the patient will make little or no opposition, when she may safely be left under the care of a single quiet attendant

or nurse and in very many cases, having received proper nourishment, will fall asleep, which is the first step to recuperation and recovery.

In such a case the physician may be said to have wisely and humanely combined his resources—that is of chemical, manual, and mechanical restraint to ensure the life of his patient. With this end in view, would you restrict him in the use of either one of the measures employed, and if so, *which* and *why*?

Very hastily yours,

H. A. BUTTOLPH.

There are none so blind as those who will not see.

I asked Dr. Magnan, at St. Anns, how he would treat a certain class of cases that had been named to me by a physician who conscientiously believed that restraint was absolutely indispensable. Dr. Magnan said: "That he never had encountered any difficulty in his great experience in treating any case and all kinds of cases without restraint. That he could treat them much better and easier and more successfully without than with restraint."

Need a reply be made to a physician of Dr. Buttolph's great experience, who talks of calming and quieting a sick and nervously prostrated woman, insane at that, by forcing her to lie, as one would imagine, in that discarded horror of Utica Asylum, an iron crib?

To most insane minds it would be like putting potash on a raw sore.

How does Dr. Buttolph suppose Dr. Peter Bryce would treat his suppositious case, or Dr. Alice Bennett, Dr. William Orange, Dr. W. B. Fletcher, Dr. P. M. Wise, or that great body of asylum superintendents whose testimony show such appliances absolutely harmful by impeding recovery?

Dr. DWIGHT SHUMWAY MOORE, assistant physician at the State hospital for the insane at Jamestown, North Dakota, sends me his views:

THE STATE HOSPITAL FOR INSANE,  
JAMESTOWN, North Dakota, April 30, 1892.

CLARK BELL, Esq., New York City.

*Dear Sir:*—In deciding how far mechanical restraint of the insane shall be done away with, every trace of personal feeling or professional rivalry,

of desire for the distinction of being the originator of a new therapeutical method or novel philanthropical movement, or, on the other hand, of conservative attachment to past customs, ought to be rigorously excluded as factors in the formation of judgment.

Since entering this specialty the greater part of my professional work has been in the capacity of assistant superintendent of the North Dakota Hospital for the Insane, and under the direction of Dr. Archibald, its executive head. It is, therefore, to the observation of his advanced methods, and liberal, kindly way of meeting the practical difficulties of hospital management, that I owe, and gratefully acknowledge here, my growing conviction that the use of restraint, not merely mechanical, but manual and chemical as well, is, with the assistance of intelligent, experienced nurses, comfortable surroundings, absence of all restriction of individual action except in the essentials of discipline and treatment, and the cultivation throughout the whole institution of a universal spirit of charity and kindly forbearance, almost never necessary.

But never and almost never are different things. Entirely different.

"Therefore, all things whatsoever ye would that men should do to you, do ye even so to them." If any man, realizing fully what it is to lose the reins of reason, is ready to ask that, under no circumstances whatever, for the prevention of injury either to himself or to others, should the power to restrain him be given to anyone whatsoever, then let him act according to the faith that is in him. As for me, I could not, in all sincerity, make such a request.

Very respectfully,

DWIGHT SHUMWAY MOORE.

Dr. WILLIAM B. FLETCHER, the eminent alienist, who sent a short letter in the opening of this discussion of mechanical restraint, sends the following:

DEAR CLARK BELL:

I could not do more to express myself than poor Cowper to define mental diseases.

The mind is—

"A harp whose chords elude the sight,  
Each yielding harmony disposed aright;  
The screws reversed, (a task which, if He please,  
God in a moment executes with ease,)  
Ten thousand times ten thousand strings go loose,  
Lost, till He tune them, all their power and use."

And the following treatment, described by Whittier, is the pith of my opinion.

"Gentle as angels' ministry  
The guiding hand of love should be,  
Which seeks again those chords to bind  
Which human woe hath rent apart.  
To heal again the wounded mind,  
And bind anew the broken heart.

The hand which tunes to harmony  
 The cunning harp whose strings are riven,  
 Must move as light and quietly  
 As that meek breath of summer heaven  
 Which woke of old it's melody;  
 And kindness, to the dim of soul,  
 Whilst aught of rude and stern control  
 The clouded heart can deeply feel,  
 Is welcome as the odors fan'd,  
 From some unseen and flowery land,  
 Around the weary seaman's keel."

Truly yours,

W. B. FLETCHER.

Indianapolis, May 9, 1892.

DR. DANIEL CLARK is one of the foremost Canadian alienists, and is at the head of the Asylum for Insane at Toronto, Ontario, in the dominion of Canada.

His letter is valuable in this connection :

ASYLUM FOR THE INSANE, TORONTO, CANADA,  
 May 10th, 1892.

CLARK BELL, ESQ., Attorney, 57 Broadway, New York.

*Dear Sir:*—I have not used any mechanical restraint or seclusion in this asylum since January 8, 1883, except in two surgical cases. I have not found them necessary. Non-restraint is not a hobby of mine, and did my judgment lead me to believe that camisoles or mitts were the best for the patients, I would not hesitate to resort to them.

A camisole is a mild form of restraint and has not the Old Adam in it that nurses' hands have. Sentiment in this respect is all well enough, but it may go too far, if it hinders the adoption of what discretion may dictate. In asylums that have one nurse to every six patients, it is easy to adopt the system of non-restraint, but where there is—as in this institution—only one nurse to every sixteen patients among the disturbed and excited class, it is quite another. However, so far, for eight years I have done very well without restraint or seclusion.

Yours truly,

DANIEL CLARK,  
*Medical Superintendent.*

## CONCLUSION.

The consensus of opinions upon this question among medical superintendents of every field of thought will, I feel, prove valuable upon the questions involved in this discussion.

It has been my purpose to give prominence to the views of those who were understood to be the foremost advocates



of the use of mechanical restraints in the care and treatment of the insane.

In New York asylums where restraints have been abolished since the death of Dr. Gray, of Utica asylum, where the great battle had been fought, where the conflict was at first fiercest and most intense, it had been succeeded by a calm feeling of restful quiet, and there came, also, the belief that the new gospel of peace had become universal.

This controversy will dispel that illusion, for it was more than an illusion. It was a delusion.

We learn that throughout American asylums there are still a few superintendents who both practice and believe in the utility and efficacy, I had almost said the humanity, of mechanical restraint.

I think it not only due to truth, but to history, to say that the purity of the motives of those who still use this method of force and violence as a controlling idea in the method of governing and managing the insane cannot be questioned and should not be asserted.

The motives of the superintendents at the beginning of the century were also as pure and as good as those who preceded and who succeeded them. It was a question of knowledge, of beliefs, of education, of inherited ideas, notions, and traditions. The Anglo-Saxon race is one that is wedded to its traditions, and changes come slowly into that type of mind.

Our trend of thought is conservative.

The railway was resisted at first.

The street-car was fought like an intruder and a danger.

Every step onward or upward in human progress is, so to say, a battle-field.

These are the mile-stones of human progress.

What are the fruits that we may justly claim now of this consensus of warring opinions?

I will attempt to formulate a few points which, I think, no matter how much we differ in other respects, we can agree upon as certain truths.

The discussion shows:

1. That leading and prominent asylums for the insane have been successfully conducted for the past decade, both in America and in the British Islands, without any recourse to mechanical restraints at all.

2. The testimony of such men or of such superintendents as Peter Bryce, in Alabama; of Dr. William Orange, at Broadmoor; of Dr. W. B. Fleming, at Indianapolis; of Dr. Alice Bennett, at Norristown, Pa.; of Wise and Pilgrim, and, Blumer, in New York asylums, of Daniel Clark, at Toronto; of Maudsley, Bucknill, and Richardson, in England, and of scores of others, is given fully, freely, and without reserve that they have not in a long experience found it at all necessary to resort to mechanical restraint in their practice in what they deem to be the best management of the institutions in their charge or over which some of them have been in charge.

3. Those who have not as yet learned how to accomplish similar results; who follow the old and tried and well-worn paths; who find it easier, and, as many think, even better to use the methods in which they were reared and trained, as a rule conscientiously act in what they in good faith believe to be the best way.

4. Much can be said of the crowding of asylums everywhere existing; of the want of trained and reliable attendants; the economy, so called, of limiting superintendents to too few and too poorly paid attendants; and the ease with which the restraints can be applied to enforce what many cannot accomplish without, as explaining why some institutions have adopted habits, so to say, of restraining patients

that would not be even considered, much less tolerated, in others.

5. While public sentiment is strongly opposed to the use of mechanical restraint, both in America and Great Britain, that is not enough of itself to condemn the practice. Still, at the same time, it can not be ignored by superintendents of asylums in countries where the will of the people substantially rules, even when majorities may be wrong. The greatest measure of good to the patient should be the guiding star in the horizon of a superintendent's life.

The invasion of the private rights of the individual should not be resorted to unless absolutely necessary for his own good or safety or that of others. To deprive a man of his liberty is one thing, but to go further should be carefully studied before attempted with the insane, and would, in itself, in most cases, arouse such a resistance and fury as to seriously retard the recovery, if not to aggravate the disease.

6. None among all those who apologize for or defend restraint in this discussion attempt to defend gross abuses.

None would sooner condemn practices in certain asylums, that are generally regarded as abuses, than would Dr. Savage or Dr. Hack Tuke.

The pity of their efforts and influences on American asylums and superintendents was to hold them up as authority for practices they would never sanction, adopt, or excuse in others.

7. There is really less difference between the two extremes of thought, so far as disclosed here, than would appear at first blush.

The extremist here limits himself to surgical cases, and a very few and very extreme cases.

No one justifies now that universal use of straight jackets, cribs, and other appliances everywhere in general use in American asylums only a few years since.

No chains are now considered necessary. No locks.

The fury of the wild beast in the insane is exorcised everywhere now.

We are growing more to realize the law of kindness, of gentleness, of tenderness, of love even.

I have seen asylums that were like households, and the superintendent the good friend of all.

8. If good work can be done in one institution without it and good results attained, is it not a pertinent useful study to fairly and conscientiously examine the methods and imitate them for any large minded superintendent?

And if, as the result of this discussion, I shall have encouraged one of those who now uphold the banner of non-restraint, or influenced one who, used to restraint, honestly endeavors to dispense with it, I shall feel a *raison d'être* for my labor.

9. Finally, if that great army of unfortunates who are without an advocate, who have suffered and endured agonies and miseries that cannot be told, if they would be as a class and as a body benefited by the total abolition of restraint, and the substitution of that system of asylum government and management of which, I may say, Dr. Brice and Dr. William Orange are the type or exponents, shall we not all with one voice say, that the end is one devoutly to be wished, and give thanks, as one asylum after another embraces the more beneficent and therefore better system of dispensing with it altogether.

## THE MEDICO-LEGAL ASPECT OF PRIVILEGED COMMUNICATIONS.

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BY ALBERT BACH, ESQ., OF THE NEW YORK BAR.

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I have for some time been of the opinion that there should be a modification, if not a repeal, of the law of this State which excludes the testimony of physicians and surgeons on the ground of privilege; and, in the treatment of my subject I shall in the main confine myself to a consideration of this particular form of privileged communication.

The exclusion is alleged to be justified by public policy, because, as is asserted, greater evils would result from the admission of such evidence than from its absolute rejection. I am convinced that, with very rare exceptions, so rare, indeed, as not to weigh in the balance of justice, it is against public policy to prohibit the giving of such evidence, and that greater evils result from its rejection than from its admission, and I therefore deem it but proper to suggest to this Society to take action to secure necessary legislation in the matter.

The law, as it appears in our Revised Statutes, 2 R. S., 406, Part 3, Chap. 7, Title 3, Sec. 73, is as follows: "No person duly authorized to practice physic and surgery shall be allowed to disclose any information which he may have acquired in attending any patient in a professional character, and which information was necessary to enable him to prescribe for such patient as a physician or to do any act for him as a surgeon."

The same provision is substantially re-enacted in the Code

of Civil Procedure of this State, in Section 834 thereof, as follows: "A person duly authorized to practice physic or surgery shall not be allowed to disclose any information which he acquired in attending a patient in a professional capacity, and which was necessary to enable him to act in that capacity."

In determining the advisability of enacting a new law, it is essential that we should thoroughly understand the benefits to be derived or the evils to be removed by its enactment.

In forming a judgment as to the advisability of repealing a law, it is incumbent on us, first, to familiarize ourselves with the history of its enactment, involving a knowledge of the cause of its existence; secondly, to accurately acquaint ourselves with the practical operation of its provisions; and, lastly, to ascertain whether it is an instrument of greater evil than good, or *vice versa*.

Privileged communications may be defined as confidential communications which at law are held not to be the proper subjects of inquiry in courts of justice, and the persons receiving them are excluded from disclosing them when called upon as witnesses, upon grounds of public policy.—*Bouvier's Law Dictionary*.

Public policy may be defined as that course of conduct that ultimately results in the greatest good and advantage to the majority of the people.

It must be remembered that we are not now dealing with the question of professional impropriety in divulging confidences, nor with professional disciplinary measures consequent upon such divulgence, but with a strict statutory prohibition preventing the disclosure of information, the revealing of which would not only prevent the perpetration of actual wilful fraud against property rights, but protect and conserve honor, morality, life itself.

I contend that when the only alternative that exists is a choice between two evils, it is right as well as imperative to select the lesser, and if there is any force in the legal maxims "*Justitia non novit patrem, nec matrem, solum veritatem spectat justitia*:" "Justice knows neither father, nor mother, justice looks to truth alone," and again, "*Lex non favet votis delicatorem*:" "The law favors not the wishes of the dainty," than the much lauded words of Lord Justice Knight Bruce in *Pearse vs. Pearse*, I DeGex & Sm., 28, 29, lose much of their force. He says, "Truth, like all other good things, may be loved unwisely; may be pursued too keenly; may cost too much, and surely the meanness and the mischief of prying into a man's confidential consultations with his legal adviser, the general evil of infusing reserve, dissimulation, meanness, suspicion, and fear into those communications which must take place, and which, unless in a condition of perfect security, must take place uselessly or worse, are too great a price for truth itself."

We shall show hereafter that the rule of privilege as appertaining to lawyers and clergymen has a foundation in reason which does not obtain in the case of physicians.

In addition to Section 834 of the Code of Civil Procedure of New York, above quoted, there are three other sections germane to the subject of this paper, to wit, Sections 833, 835, and 836.

Section 833 provides: "A clergyman or other minister of any religion shall not be allowed to disclose a confession made to him in his professional character, in the course of discipline enjoined by the rules or practice of the religious body to which he belongs." This provision may be also found in the Revised Statutes of New York, at 2 R. S., 406, Part 3, Ch. 7, Tit. 3, Sec. 72.

Section 835 provides: "An attorney or counsellor-at-law shall not be allowed to disclose a communication made by

his client to him, or his advice given thereon, in the course of his professional employment."

Section 836 provides: "The last three sections (833, 834, and 835) apply to every examination of a person as a witness, unless the provisions thereof are expressly waived by the person confessing, the patient, or the client."

Said section 836 was amended by an enactment of the Legislature of the State of New York in 1891, Chap. 381, by adding to it the following language:

"But a physician or a surgeon may, upon a trial or examination, disclose any information as to the mental or physical condition of a patient who is deceased which he acquired in attending such patient professionally, except confidential communications and such facts as would tend to disgrace the memory of the patient, when the provisions of section 834 have been expressly waived on such a trial or examination by the personal representatives of the deceased patient, or if the validity of the last will and testament of such deceased patient is in question, by the executor or executors named in said will."

This amendment, I contend, will be of very little practical use in removing the evil of the existing law on the subject and in overcoming the difficulties referred to in the herein-after considered cases, for the reason that it renders the disclosure of the information communicated to the physician dependent upon an express waiver of the privilege by the personal representatives of the deceased or by the executors of his Will when the validity of his Will is brought into question, and it is not at all likely that such waiver would ever be given when the interests of the personal representatives or executors of a deceased person would be jeopardized by the giving of the same.

Furthermore, the said amendment leaves it entirely discretionary with the physician or surgeon as to whether he will testify as to the mental or physical condition of the patient, which, as will hereafter be shown, is the very obstacle in the path of justice which, I claim, should not be permitted to exist.



The amendment seems to me to have been procured to be enacted to meet the contingencies of some individual case where it was well known that a physician would testify and the waiver would be given, and its provisions, like those of Section 834, appear to be based on the same wrongful presumption, to wit: that the protection of the individual is a consideration paramount to the protection of the public at large.

Under the English common law the privilege was extended to lawyers only, and not to either physicians or clergymen.

Dutchess of Kingston case, 20 How. St. Tr., 613.

Baker *vs.* R. R., 3 C. P., 91.

Mahoney *vs.* Ins. Co., L. R., 6 C. P., 252.

Wheeler *vs.* LeMarchant, 44 L. T. N. S., 631.

2 Starkie Evidence, 228.

Under the Roman common law the more recent tendency is that a physician is privileged as to matters confidentially imparted to him by a patient.

Weiske' Rechts Lexicon, XV., 259 ff.

Under the Code Penal of France a physician is punishable for disclosing the confidences of his patients.

Boniere Traite des Preuves, Sec. 179.

A letter to the *Lancet* from Paris on the "Divulging of Professional Secrets," recently published in the interest of the medical profession, shows how rigidly the privilege is enforced under the French Code, upon that profession. The letter reads thus: "I always understood that the divulgence of a professional secret constituted a criminal offense only when accompanied by evidence of malice, but the following example would seem to show such a conclusion to be erroneous. It may be remembered that after the death of the celebrated painter Bastien Lepage, which took place about the 12th of December last, several articles were published in the daily papers, reporting the circumstances, in doing which the

most uncharitable insinuations were made in some of them as to the nature of the malady from which the deceased suffered. After reading these reports, Dr. Watelet, his medical attendant, sent a letter to the many papers to refute them, and at the same time mentioned that his patient died from a cancerous affection. This aroused the indignation of the judicial authorities, in consequence of which Dr. Watelet was sued before the Correctional Court last week. The judge admitted that the intention on the part of the defendant was praiseworthy, yet, as the act constituted a breach of the Penal Code, he was condemned to pay a nominal fine of one hundred francs, and the editor of the paper in which Dr. Watelet's letter appeared was fined sixteen francs for complicity."

Thus a physician who tried to save the memory of his patient from disgrace, by denying slanderous reports concerning the nature of the disease from which the patient died, and asserting the real disease, is punished. This would be farcical, if not so serious. An interesting question here arises as to how a case of slander, such as this, could be proved against the slanderer.

The States and Territories of the United States which have extended the privilege to medical men and clergymen are as follows: Arizona Territory, Arkansas, California, Idaho, Indiana, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, New York, Ohio, Oregon, Utah Territory, Washington, Wisconsin, Wyoming.

The States and Territories which have not changed the Common Law on the subject are: Alabama, Colorado, Connecticut, Delaware, Florida, Georgia, Maine, Massachusetts, Mississippi, Minnesota, North Carolina, New Hampshire, New Jersey, New Mexico Territory, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia.

The communications from client to lawyer seem, at all times since the employment of lawyers, and in all countries, to have been privileged, and, so far as the English Common Law is concerned, in which we are more particularly interested, as constituting the foundation of our own laws, the reason for the existence of the privilege will be here given, for the purpose of subsequently drawing a contrast between it and the reason given of late for the application of the rule to physicians.

In *Whiting vs. Barney*, 30 N. Y., 330, Selden, *J.*, says, in giving the history of the origin of the rule of privilege as applicable to lawyers: "In ancient times parties litigant were in the habit of coming into court and prosecuting or defending their suits in person. Subsequently, however, as lawsuits multiplied and the modes of judicial proceedings became more complex and formal, it became necessary to have these suits conducted by persons skilled in the law and in the practice of the courts. This necessity gave rise at an early day to the class of attorneys; to facilitate the business of the courts it was important that these men should be employed. But as parties were not then obliged to testify in their own cases, and could not be compelled to disclose facts known only to themselves, they would hesitate to employ professional men and make the necessary disclosures to them, if the facts communicated to them were within the reach of their opponents. To encourage the employment of attorneys, therefore, it became indispensable to extend to them the immunity enjoyed by the party. Lord Chancellor Brougham, in *Greenough vs. Gaskell*, Eng. Ch., 98, says that the foundation of this rule is not difficult to discern. It is not (as has sometimes been said,) on account of any particular importance which the law attributes to the business of legal professors, or any particular disposition to afford them protection. But it is out of regard to the interests of justice,

which cannot be upholden, and the administration of justice, which cannot go on, without the aid of men skilled in jurisprudence, in the practice of the courts, and in those matters affecting rights and obligations which form the subject of all judicial proceedings," and in *Bolton vs. Corporation of Liverpool*, 6 Eng. Ch., 467, Lord Brougham says on the same subject: "If such communications are not protected, no man would dare consult a professional adviser with a view to his defence, or to the enforcement of his rights, and no man could safely come into court, either to obtain redress, or to defend himself."

Here then, we have an all-important, valid reason why the mouth of an attorney should be sealed at the will of the client concerning matters communicated by the client, necessary to be known to properly defend the client or prosecute his case. The attorney becomes the *alter ego* of the client, and as the client would not, naturally, testify against himself, or reveal the secret of his defence or cause of action outside of the court-room on trial of his cause, and could not be compelled to do so against his will, he would indeed have just cause in hesitating, or even refusing to confide in another, who might betray him, and as the employment of attorneys is necessary for the proper and expeditious administration of justice, it was deemed wise to afford to clients the security as to secrecy that a statutory prohibition, such as this is, provides. Furthermore, every man is entitled to a trial in accordance with the laws of the land, every man being presumed innocent until proved guilty, and no man being compelled in criminal cases to testify against himself, or in either criminal or civil cases to degrade or disgrace himself out of his own mouth; such provisions of law being considered in harmony with an advanced state of civilization—and if the assurance of the safety dependent upon an inviolable secrecy were withdrawn, we would retrograde to

the time of the rack and thumbscrews and other tortures for the extraction of lying confessions as the only relief for bodily agony.

I can easily comprehend also the soundness of the principle or rule of law that imposes inviolable secrecy on the priest as to the confessions of a penitent, and really do not appreciate why there should be any distinction between the case of a Roman Catholic priest or a divine of any other religion, to whom a confession is made in the expectation of moral guidance and forgiveness of sin. I am satisfied that great masses of humanity need the chastening rod of church discipline which, when tempered and re-enforced with sound spiritual advice, constitutes a great and powerful factor in the proper government and control of millions of people.

If the cause of morality is advanced by and through the confessional, and with those who believe in it, I think it is, then the desire to unburden a guilty conscience should be encouraged by the enactment of laws prohibiting the divulgence of its narrative.

In the cases of lawyer and client, and clergyman and penitent, if the rule of privilege did not exist, the laws of the land would not be properly administered; people would be deprived of their rights under the laws, both temporal and spiritual, and through a general sentiment of mistrust, insurmountable barriers would rise in the pathway of human progress. In other words, a man will not reveal his true inwardness to a lawyer or a priest, unless he is satisfied that his confidence will not and cannot be betrayed.

As heretofore stated, under the common law of England the medical witness is not a privileged witness. Fonblanque, a distinguished English barrister, holds that when the ends of justice absolutely require the disclosure, a medical witness is not only bound, but compellable, to give evidence on all matters that will enlighten the case; and in the case of the

Dutchess of Kingston, which is a leading case, Lord Mansfield said: "In a Court of justice medical men are bound to divulge secrets when required to do so. If a medical man was voluntarily to reveal those secrets, to be sure he would be guilty of a breach of honor and of great indiscretion; but to give that evidence, which by the law of the land he is bound to do, will never be imputed to him as any indiscretion whatever." In this case Sir C. Hawkins, who had attended the Dutchess as medical man, was compelled to disclose what had been committed to him in confidence.

In *The People vs. Stout*, 3 Park, Crim. Rep., 670, is given the history in this State of the rule of privilege as applied to physicians. The Court in this case quotes the following remarks of Justice Buller in *Wilson vs. Rastall*, 4 Term R., 756: "There were cases in which it is much to be lamented that the law of privilege was not extended to those in which medical persons were obliged to disclose the information which they acquired by attending in their professional character."

The Court then proceeds to say: "Upon the revision of the statutes of this State in 1828 the revisers noticed this omission in the Common law and introduced a section amendatory of the defect. . . ."

This section is set forth above.

The revisor's note to this section is as follows: "The ground on which communications to counsel are privileged is the supposed necessity of a full knowledge of the facts to advise correctly and to prepare for the proper defence or prosecution of a suit, but surely the necessity of consulting a medical adviser when life itself may be in jeopardy, is still stronger, and unless such consultations are privileged, men will be incidentally punished by being obliged to suffer the consequences of injuries, without relief from the medical art, and without conviction of any offence. Besides, in such cases,

during the struggle between legal duty on the one hand, and professional honor on the other, the latter, aided by a strong sense of injustice and inhumanity of the rule, will in most cases furnish a temptation to the perversion or concealment of truth too strong for human resistance. In every view that can be taken of the policy, justice, or humanity of the rule, as it exists, its relaxation seems highly expedient. It is believed that the proposition in the section is so guarded that it cannot be abused by applying it to cases not intended to be privileged. 3 R. S., 737, 2 Ed."

In *Pierson vs. People*, 79 N. Y., 433, it is said by Judge Earl, who wrote the opinion of the Court: "The design of the provision (referring to section 834 of the Code of Civil Procedure) was to place the information of the physician, obtained from his patient in a professional way, substantially on the same footing with the information obtained by an attorney professionally of his client's affair. The purpose was to enable a patient to make such disclosures to his physician as to his ailments, under the seal of confidence, as would enable the physician to intelligently prescribe for him, to invite confidence between physician and patient, and to prevent a breach thereof," citing *Edington vs. Mut. L. Ins. Co.*, 67 N. Y., 185, and *Edington et al. vs. Aetna Life Ins. Co.*, 77 N. Y., 564, and on page 434, in *Pierson vs. People*, Judge Earl further says: "The plain purpose of this statute, as in substance before stated, was to enable a patient to make known his condition to his physician without danger of any disclosure by him which would annoy the feelings, damage the character, or impair the standing of the patient while living, or disgrace his memory when dead. It could have no other purpose."

In *McKinney vs. Grand St. R. R.*, 104 N. Y., 352, Ruger, *Ch. J.*, writing the opinion of the Court, says: "The intent of the statute, in making such information privileged,

is to inspire confidence between patient and physician, to enable the latter to prescribe for and advise the former most advantageously, and remove from the patient's mind any fear that she may be exposed to civil or criminal prosecution, or shame and disgrace, by reason of any disclosure thus made. Therefore the statute provides that the information acquired by a physician attending a patient in his professional capacity shall not be disclosed unless the patient expressly waives the prohibition."

We thus have before us the expressed purpose of the revisers of our State's statutes in making this provision a part of our statute law, and also a judicial determination of the intent of the enactment by two very eminent judges; but keeping in mind the definition of public policy to be a course of conduct that ultimately results in the greatest good and advantage to the majority of the people, and remembering that the safety of the citizen is the supreme law of the State; that the general system of law looks to the detection and punishment of crime; that justice is not a respecter of mere personality; that individual reputation should not weigh a feather's weight in the scale as against the rights of the masses; that law should not hold out a premium to the perpetuation of fraud; that no one is at all likely to forego medical or surgical treatment through any fear of a divulgence of his condition, either mental or physical, but would seek such treatment notwithstanding all the publicity that might be given to his complaint, on the theory that self-preservation is the first law of nature; that there is no occasion for the revealing of the secret cause of the physical condition of the patient when applying to a physician for treatment; that confidences entrusted to a physician not necessary to enable him to act are not privileged; that the world has not yet attained, nor probably ever will attain, to that Utopian condition where, as a rule, death or great phys-



cal suffering is submitted to in preference to dishonor, we are forced inevitably to the conclusion that not only is the assertion that this rule of privilege is based on public policy with very little foundation in fact, but on the other hand that its enforcement works much more harm than good.

Thus far I have discussed the matter on the assumption which seems to have existed in the minds of the revisers of our statutes, that all communications of a patient to his physician who is treating him professionally are of such a nature as to make their divulgence result in disgrace to the patient or his memory, and it must not be forgotten that this provision of law does not mention any exceptions in the matter of the information conveyed. It need hardly be stated that there are numberless instances of disclosures by patient to physician, which, if revealed, would in no way tend to degrade either the patient or his memory, and yet, as will hereinafter appear, the courts have held that they are powerless to do aught but enforce the law as it stands, no matter how great be the absurdity in so doing, until a case of murder (*Pierson vs. People*) came before them, when it was decided that the protection of the community was of more importance than the enforcement of the strict letter of the law leading to an absurd consequence. And in some cases in which the courts find a strict upholding of the law will be productive of practical inconvenience to the community, they decide that, although within the letter of the statute, they are not within the reason thereof, and assert *cessante ratione legis, cessat et ipsa lex*.

It has been well said that if you would have a bad law repealed, enforce it strictly, and the law under consideration forms no exception to the rule; for some decisions of our highest courts contain *obiter*, admitting the wrongs that result from an enforcement of the law, although admitting

the helplessness of the courts in the matter, and suggesting legislative interference as the means of relief.

The cases in which the courts have intimated that the strict enforcement of the rule of privilege works great hardship and obstructs the wheels of justice are insurance and will cases, and in their animadversions on the subject, judges, while stating that the Courts are bound by the rule, endeavor, where they consistently may do so, to take certain cases out of the rule by interpretation and construction, which convinces me that, so far from recognizing that public policy is subserved, by permitting the letter of the law to prevail in its full force and effect, it is thereby subverted.

I am frank to say that, when we take into consideration the rights of others and the public welfare, I cannot conceive of any case wherein the enforcement of the rule will not work more harm than good.

Attention was quite recently attracted to this rule of law in the trial of Carlisle Harris for the murder of his wife, when counsel for Harris raised the objection of privilege to the testimony of the physician who attended Miss Potts or Mrs. Harris, immediately before she died, as to what he did, saw, or heard during his attendance on her, and as to what, in his opinion, was the cause of her death. The objection was overruled, and the physician was allowed to testify fully and to state that, in his opinion, the woman died of morphine poisoning. Many lawyers expressed doubt as to the soundness of the decision of the Recorder on this point, but I do not think the point is open to discussion so far as precedent is concerned, under the decision in *Pierson vs. People*, 79 N. Y., 424, which was also a case of trial for murder by poison. In *Pierson vs. The People*, the prisoner, William Pierson, was indicted in Livingston County for murder, in causing the death by poison of Leaman B. Withey in February, 1877. He was tried and convicted and sentenced to be

hanged. His conviction was affirmed at the General Term of the Supreme Court, and he appealed to the Court of Appeals, seeking a reversal of his conviction for alleged errors, among which was claimed a violation of the rule of privilege here under discussion.

“While Withey was sick, suffering from the poison which is supposed to have been administered to him, Dr. Coe, a practicing physician, was called to see him by the prisoner, and he examined him and prescribed for him. On the trial he was called as a witness for the people, and this question was put to him: “State the condition in which you found him at the time, both from your own observation and from what he told you.” The prisoner’s counsel objected to the question, on the ground that the information which the witness obtained was obtained as a physician, and that he had no right to disclose it; that the evidence offered was prohibited by the statute. The court overruled the objection, and the witness answered, stating the symptoms and condition of Withey as he found them from an examination then openly made in the presence of Withey, his wife, and the prisoner.” It was claimed the court erred in allowing the evidence, and Section 834 of the Code was invoked to uphold the claim. Judge Earl, who wrote the opinion of the Court of Appeals this case, says: “There has been considerable difficulty in in construing this statute, and yet it has not been under consideration in many reported cases. . . . It may be so literally construed as to work great mischief, and yet its scope may be so limited by the courts as to subserve the beneficial ends designed, without blocking the way of justice. It could not have been designed to shut out such evidence as was here received, and thus to protect the murderer, rather than to shield the memory of his victim. If the construction of the statute contended for by the prisoner’s counsel must prevail, it will be extremely difficult, if not impossible, in most

cases of murder by poisoning to convict the murderer. Undoubtedly such evidence has been generally received in this class of cases, and it has not been understood among lawyers and judges to be within the prohibition of the statute. How then must this statute be construed? The office of construction is to get the meaning out of the language used, if possible. If the words used are clear and unmistakable in their meaning, and their force cannot be limited by a consideration of the whole scope of the statute, or the manifest purpose of the Legislature, they must have full effect. But in endeavoring to understand the meaning of words used, much aid is received from the consideration of the mischief to be remedied or object to be gained by the statute. By such consideration words otherwise far-reaching in their scope may be limited. Statutes are always to be so construed, if they can be, that they may have reasonable effect, agreeably to the intent of the Legislature; and it is always to be presumed that the Legislature has intended the most reasonable and beneficial construction of its acts. Such construction of a statute should be adopted as appears most reasonable and best suited to accomplish the objects of the statute, and where any particular construction would lead to an absurd consequence, it will be presumed that some exception or qualification was intended by the Legislature to avoid such consequence. A construction that will be necessarily productive of practical inconvenience to the community is to be rejected, unless the language of the law-giver is so plain as not to admit of a different construction: (Potter's Dwaris on Statutes, 202.) The plain purpose of this statute, as in substance before stated, was to enable a patient to make known his condition to his physician without the danger of any disclosure by him which would annoy the feelings, damage the character, or impair the standing of the patient while living, or disgrace his memory when dead. It could have

no other purpose. But we do not think it expedient at this time to endeavor to lay down any general rule applicable to all cases, limiting the apparent scope of this statute. We are quite satisfied with the reasoning upon it of Judge Talcott, in his able opinion delivered at the General Term of the Supreme Court, and we agree with him that the purpose for which the aid of this statute is invoked, in this case, is so utterly foreign to the purpose and objects of the act, and so diametrically opposed to any intention which the Legislature can be supposed to have had in the enactment, so contrary and inconsistent with its spirit, which most clearly intended to protect the patient and not to shield one who is charged with his murder, that in such a case the statute is not to be so construed as to be used as a weapon of defence to the party so charged, instead of a protection to his victim. This objection was therefore not well taken."

No one, we opine, will question the soundness of this decision, if the public welfare is to be considered; yet I consider it to be a construction of the statute made only because the strict letter of the law, if carried into effect, would result in an abomination, and not because the language admits of construction; and I am confirmed in my opinion that there is no room for construction of this provision of the law, by the language of Judge Earl, of the Court of Appeals of New York, in *Westover vs. Ins. Co.*, 99 N. Y., 58: "It is thus seen that clergymen, physicians, and attorneys are not only absolutely prohibited from making the disclosure mentioned, but that by an entirely new section it is provided that the seal of the law placed upon such disclosures can be removed only by the express waiver of the persons mentioned. Thus there does not seem to be left any room for construction. The sections are absolute and unqualified."

But what think you of the following case—the People *vs. Murphy*, 101 N. Y., 126, which involved a trial of an

indictment for abortion! The evidence on the part of the prosecution tended to show that the defendant arranged with one Dr. S. to perform the operation to procure an abortion, and took the female to the office of said doctor, where the operation was performed; that defendant then took her to a boarding house and arranged for her board and care until after her sickness, and paid the bill. After the discovery of the commission of the crime the District Attorney sent a physician to attend upon the girl. He called upon her, made an examination of her person, and prescribed for her. Upon the trial said physician was called as a witness for the prosecution, and was permitted to give his opinion, under objection and exception, that an abortion had been performed, founded upon personal examination so made by him, and upon what his patient told him in regard to the matter.

The Court of Appeals held the admission of the physician's testimony to be error. Judge Finch, who wrote the opinion of the court, says: "We are of the opinion that Section 834 of the Code of Civil Procedure is applicable to criminal actions, and that whatever possible doubt may have attended the question is finally dispelled by Section 392 of the Code of Criminal Procedure. The confidential character of disclosures by a patient to his attending physician was established before the Code by statute and in terms, which, beyond reasonable question, applied to all actions, whether civil or criminal. (3 R. S., 671, Sec. 119, 6 Ed.; *People vs. Stout*, 3 Park, Cr. 670.) That statute was substantially incorporated into the Civil Code, in language broad enough to justify the same general application as that which characterized the older statute; and the further provision of the Code of Criminal Procedure, already referred to, seems to us intended to settle the question. No doubt upon that subject was intimated in *Pierson vs. People*, (79 N. Y., 424,) but

in that decision the statute was construed, and we held it did not cover a case where it was invoked solely for the benefit of the patient; and where the latter was dead, so that an express waiver to the privilege had become impossible. The present is a different case. Here the patient was living, and the disclosure which tended to convict the prisoner inevitably tended to convict her of a crime, or cast discredit and disgrace upon her. We have no doubt upon the evidence that between her and the witness, whose disclosure was resisted, there was established the relation of physician and patient. Although he was selected by the Public Prosecutor and sent by him, yet she accepted his services in his professional character, and he rendered them in the same character. She was at liberty to refuse, and might have declined, his assistance, but when she accepted it, she had a right to deem him her physician and treat him accordingly. It follows that the exception to this disclosure of what he learned while thus in professional attendance was well taken."

I am at a loss to comprehend why the rule should apply in such a case as the one last above, unless on the assumption that the conviction of the woman of the same crime as that for which the prisoner was on trial, and of which she was no doubt guilty, was considered of less importance and more harmful, as a rule of general application, than the discrediting and disgracing of the woman. In other words, unless private character is more important than the public welfare, through the punishment of crime, this assumption strikes me as too ridiculous to be considered seriously.

Let us go a little further into the scope and effect of this rule of privilege under the decisions.

It would appear that the provisions of the statute are not limited to a prohibition of disclosure by a physician of information of a confidential nature, but apply to all information obtained by the physician from his patient while attending

in a professional capacity which is necessary to enable him to act.

*Renihan vs. Dennin*, 103 N. Y., 573.

The ultimate reason of the prohibition, as hereinbefore stated, is that, sooner than subject himself to an alleged disgrace on account of affliction by way of bodily or mental ailment, a patient would rather forego medical or surgical treatment and thus be deprived of relief. In the light of human experience, is this at all probable? Is not the proposition preposterous? Persons who have reached that stage of sensitiveness, would not even taken the chance of trusting to a physician's sense of professional honor, and would not depend upon the statute for protection—in a word they would end their misery by suicide, which they would not be deterred from committing with full knowledge of the provisions of the statute.

Keeping in mind that the essential elements to a valid objection under the rule are:

- I. That the relation of physician and patient must exist.
- II. That the information must be acquired while attending a patient, and—
- III. That the information must be necessary to enable the physician to act,

let us proceed to consider the decisions on the subject, and the effect of the rule in practical operation.

I shall present these decisions in the following order:

1. Life Insurance Cases.
2. Will Cases.
3. Damage Cases.

#### LIFE INSURANCE CASES.

From the host of decisions under this head I have selected the following as leading ones, and as clearly exemplifying



the correctness of my contention as to the harm done by this law.

*Westover vs. Ætna Life Ins. Co.*, 99 N. Y., 56.

*Grattan vs. Metropolitan Life Ins. Co.*, 80 N. Y., 281.

*Edington vs. The Ætna Life Ins. Co.*, 77 N. Y., 564.

*Edington vs. Mutual Life Ins. Co.*, 67 N. Y., 185.

*Dilleber vs. Home Life Ins. Co.*, 69 N. Y., 256.

*Cahen vs. Continental Life Ins. Co.*, 69 N. Y., 308.

*Connecticut Life Ins. Co. vs. Union Trust Co.*, 112 U. S. S. C., 254.

In all of the above cases, except *Westover vs. Aetna Life Insurance Company*, the defence of the Company was false representation in application for policy, and this was attempted to be proved by medical testimony, which, under the rule of privilege, was excluded.

Under the law the plaintiff is not bound to show affirmatively that every answer in his application is true; it rests with the defendant Company to allege and prove the breach of warranty complained of.

In most applications the following declaration appears: "I hereby declare that I have given true answers to all questions put to me by the medical examiner; that they agree exactly with the foregoing; that I am the same person described in the accompanying application, and whose signature is appended to declaration and warranty herewith."

Under the rule of privilege, if any material representation of the applicant is false, and there is no means of proving its falseness when the policy is about to be issued, the most important evidence obtainable to show the fraud perpetrated on the Company, to wit, medical evidence, is excluded by the courts. Does this not offer a premium to fraud?

*Westover vs. Aetna Life Insurance Company* was an action upon a policy of life insurance which contained a clause avoiding it in case the insured committed suicide or died by his own hand. It appeared that the insured hanged himself. The plaintiff claimed that he was insane at the time. A physician who attended the deceased a short time before his death was asked by the plaintiff, as a witness, "How did you find him?" This was objected to by defendant, as within the prohibition of the Code. The court below overruled the objection, and allowed the witness to answer at length, giving important evidence as to the mental and physical condition, at the time and subsequently, of the insured; but the appellate court held the overruling of the objection error, and reversed the decision in favor of plaintiff, and ordered a new trial, on the ground that the evidence was incompetent and privileged under Section 834 of the Code of Civil Procedure.

Here we see excluded by the appellate court vital evidence probative of the irresponsibility of the insured at the time he took his life, and which must have had great weight with the jury in the court below in determining the question submitted to them for their determination, to wit, whether the hanging was a voluntary, conscious, willing act of the testator, or whether he was at the time so insane that he was either unconscious of the act which he performed, or was unable to understand what the physical consequences of it would be, for on that question they found for the plaintiff. It is not difficult to conceive how, under exclusion of such evidence, recovery would be impossible on a policy which does not waive the right to defend on the ground of dying by one's own hand.

In *Grattan vs. Metropolitan Life Insurance Company*, *supra*, the false representations contended to have been made by the insured were: First—In regard to his occupa-

tion. Second—In regard to the cause of death of his mother and sister. Evidence was offered by the defendant for the purpose of showing disease in the mother and sister of the insured, and therefore the falsity of his representations. It was offered from a physician that had attended the mother of the life insured, “in her last illness, in a professional capacity,” and also from a layman. The defendant thus established that the relation between the mother and the witness was that described in the statute of physician and patient. Thereupon the following questions were put to him :

1. Do you know and are you able to state the cause of her death?

2. Did you observe the symptoms that she exhibited in her sickness?

3. Were the symptoms of the disease such that you might have discovered it without the aid of any specific statement made by the patient; that is, by observation and physical examination, could you have ascertained the character of the disease?

4. Were the symptoms of the disease such that you might have discovered them without their being confidentially disclosed to you by Mrs. Peter Grattan, or any friend, or attendant, or through private examination?”

Defendant’s counsel then read the statement of the life insured that the cause of his mother’s death was intermittent fever after child-birth, and then asked the witness :

5. Is this statement true?

6. Did you ever treat Mrs. Grattan for intermittent fever, and if so, did you treat it as the radical disease, or as an incidental symptom?

These questions were all excluded, the court holding, Danforth, Judge, writing the opinion, that they came within the statute, and adding: “Though the patient had been

dumb, it would make no difference. The communication to his sense of sight is within the statute, as much so as if it had been oral and reached his ear. It was not necessary that the examination should be private. It is sufficient that the witness acquired his information in his character as physician, and in the due and proper exercise of his calling. Nor was it necessary for the plaintiff to show, in the first instance, by formal proof, that the information was necessary to enable the witness to prescribe. Such, under the circumstances of this case, is the inevitable inference."

When defendant attempted to prove the falseness of the above representations by the lay witness, the court held, and was therein sustained by the Court of Appeals, that the layman's testimony was properly excluded, as "the witness was not fitted by any special training or by his professional education, to speak as an expert, or express an opinion in reference to the character of the disease with which Mrs. Grattan was afflicted."

Here then you have a case when an expert is not permitted to testify on account of the statutory provision, and a layman's evidence excluded because he is not an expert. In other words, the only kind of reliable evidence on the point is shut out, merely because the person who could give it is a physician who attended Mrs. Grattan, and obtained his information through such attendance, and surely not because the disclosure of the fact that she died of intermittent fever after child-birth could in any possible way have disgraced her memory. In passing, it may be said that no one but an expert could properly describe the symptoms of some diseases so as to enable the putting of a hypothetical question.

In *Edington vs. Mutual Life Insurance Company*, *supra*, evidence was offered to show by certain physicians that the life insured was afflicted with disease, and it was urged

“that the testimony they would give was based on knowledge which they obtained solely from their attendance upon him as physicians, and not from any information received from him.” It was excluded, and Miller, Judge, speaking for the Court of Appeals, holds that it was rightfully rejected, and, with other words to the same effect, says: “The point made that there was no evidence that the information asked for was essential to enable the physician to prescribe, is not well taken, as it must be assumed from the relationship existing that the information would not have been imparted except for the purpose of aiding the physician in prescribing for the patient. When it (the statute) speaks of information, it means not only communications received from the lips of the patient, but such knowledge as may be acquired from the patient himself, from the statements of others who may surround him at the time, or from observation of his appearance and symptoms. Even if the patient could not speak, the astute medical observer would readily comprehend his condition. Information thus acquired is clearly within the scope and meaning of the statute.”

The same doctrine as last above enumerated was reiterated and enforced in *Dilleber vs. Home Life Insurance Company*, and *Cahen vs. Continental Life Insurance Company*, *supra*.

In *Connecticut Life Insurance Company vs. Union Trust Company*, *supra*, Justice Harlan, writing the opinion of the court, says: “But it is suggested that truth and justice require the admission of evidence which the statutory rule (rule of privilege as to physicians) rigorously enforced, would exclude, and that it can be admitted without disturbing the relations of confidence properly existing between physician and patient; that it would not afflict the living or reflect upon the dead if a physician should testify that his patient had died from a fever or from an affection of the

liver, and the rule, as now understood and applied in the courts of New York, shut out in actions on life policies the most satisfactory evidence of the existence of disease and of the cause of death. These considerations, not without weight, so far as the policy of such legislation is concerned, are proper to be addressed to the legislature of that State. But they cannot control the interpretation of the statute, where its words are so plain and unambiguous as to exclude the consideration of extrinsic evidence."

In *Briggs vs. Briggs*, 20 Mich., 34, it is said of a witness: "He had no knowledge upon the subject, except what he obtained in the course of his professional employment." . . . . We do not understand the information here referred to to be confined to communications made by the patient to the physician, but "regard it as protecting, with a veil of privilege, whatever, in order to enable the physician to prescribe, was disclosed to any of his senses, and which in any way was brought to his knowledge for that purpose."

#### WILL CASES.

The prominent recent cases in this State under this head are :

*Hoyt vs. Hoyt, et al.*, 112 N. Y., 515.

*Loder vs. Whelpley, et al.*, 111 N. Y., 239.

*In re Coleman*, 111 N. Y., 220.

*Renihan vs. Dennin*, 103 N. Y., 573.

*In re Coleman* it is held that where the probate of a Will is contested on the ground of the unsoundness of mind of the testator, a physician who has attended upon the deceased in a professional capacity is not a competent witness for the contestants, to testify, from knowledge acquired while so attending him, as to his mental capacity, and after the death of the patient the prohibition cannot be waived by anyone, citing *Westover vs. Insurance Company*, 99 N. Y.,

56. And to the same effect is *Loder vs. Whelpley, et al., supra.*

The case of *Renihan vs. Dennin, supra*, holds that where a physician attending upon a patient requests another physician to attend with him for consultation in regard to the condition of the patient, and he does so attend, he is brought within the provisions of the Code of Civil Procedure, Sections 834 and 836, prohibiting the physician from disclosing information acquired in attending a patient in a professional capacity, necessary for him to act in that capacity. To bring the case within the statute it is sufficient that the physician attended as such upon the patient and obtained his information in that capacity. The provisions apply where the physician is called as a witness in proceedings for the probate of a will. These provisions are not limited to a prohibition of disclosure by a physician of information of a confidential nature, but apply to all information obtained by the physician from his patient, while attending in a professional capacity, which is necessary to enable him to act.

The facts in this case, so far as they appertain to the statute in question, were as follows: It appeared that the will of the testator was executed in the evening, a short time before his death, and that, during the same evening, before the execution of the will, one Dr. Bontecou was requested by the attending physician to be present at the testator's house for consultation with him relative to the testator's condition and treatment, and in pursuance of such request he did attend. Dr. Bontecou was called as a witness for the contestants, and testified that he saw the testator, and advised a prescription for him.

The following questions were put to him:

Will you describe the appearance and condition of the sick man when you got into the room?

At the time you examined this man, was he, in your judgment, in that state known to your profession as "collapse?"

Was he in your judgment in a dying condition?

State whether, in your judgment, at any time after that occasion when you were there, James Dennin was in such a condition that he was capable of understanding and taking into account the nature and character of his property, and of his relations by blood and marriage to those who were, or might become, the objects of his bounty, and make an intelligent disposition of his property by will?

The same question as the last was repeated, confining it to the time when the witness saw the testator.

All questions were objected to as incompetent under the statute.

The objections were sustained, exception was taken, and the appeal was determined on that exception.

The appellate court held that, although the witness was a consulting physician, the statute applied to him, and the objection was well taken. The appellate court, in this case, Earl, J., writing the opinion of the court, says, "But it is claimed that the statute should be held not to apply to testamentary cases. There is just as much reason to apply it to such cases as to any other, and the broad, sweeping language of the two sections (834 and 836, Code of Civ. Pro.) cannot be so limited as to exclude such cases from their operation. There is no more reason for allowing the secret ailments of a patient to be brought to light in a contest over his Will than there is for exposing them in any other case where they become the legitimate subject of inquiry. An exception *so important*, if proper, should be engrafted upon the statute by the legislature, and not by the courts."

And, further on:

"It is probably true that the statute, as we feel obliged to construe it, will work considerable mischief; in testamentary



cases where the contest relates to the competency of the testator, it will exclude evidence of physicians which is generally the most decisive and important. In cases upon policies of life insurance, where the inquiry relates to the health and physical condition of the insured, it will exclude the most reliable and vital evidence, which is absolutely needed for the ends of justice; but the remedy is with the legislature, not with the courts."

I believe every one will agree with the above comments of the learned judge on this obnoxious provision of law, for his language is in accord with sound common sense.

*In re Halsey's Estate*, 9 N. Y. Supp., 441, Surrogate Ransom, of the New York City Surrogate's Court, holds that the evidence of a physician as to a statement made to him by decedent, and which, he testifies, was not necessary to enable him to act in his professional capacity, is admissible, notwithstanding Section 834 of the Code. The learned Surrogate seems to base his decision on his conviction that he could not believe that the intention of the courts was to exclude the testimony of a physician as to information which he, on his oath, stated was not necessary for him to act in his professional capacity. I have the utmost respect for the learned Surrogate and his great ability as a jurist; yet I am satisfied that the reason given by the General Term of the Supreme Court of New York *in re Darragh*, 5 N. Y. Supp., 58, for the exclusion of the evidence, even under the above circumstances, and which reason the learned Surrogate, *in re Halsey*, seems to have disregarded, to be entirely sound under the existing law on the subject, to wit, that if you were to allow the rule to be evaded by a physician swearing that the information obtained was not necessary to enable him to act, you would place it in the power of the physician to violate the statute at will. The decision of the learned Surrogate in that case evidences a desire on his part to allow justice to prevail over

technical and strict enforcement of the letter of the statute, and I honor him for his determination.

*In re Darragh* estate, above referred to, it was held that the physician who attended the testatrix professionally and visited her socially is not competent to testify to his opinion of her testamentary capacity, formed from impressions received from the friendly visits, as such impressions necessarily relate to knowledge acquired professionally, and it is immaterial whether the information received from her, on which his impressions were based, was necessary to a proper treatment of her case. By such rulings in testamentary cases you actually hold that disclosures, insignificant in themselves, and of no force as involving the moral turpitude of the testator, are more harmful than the deprivation of rights under the statute of distribution, and under the laws of nature, as to the proper channels in which a man's property should go.

The ruling of the Court of Appeals of New York on the the question here under consideration, in *Hoyt vs. Hoyt, et al, supra*, presents a strange anomaly, in view of the language of the statute and of the other decisions of the same court on the same subject in the cases above mentioned, for in *Hoyt vs. Hoyt, et al*, we find this language of Judge Gray, in writing the opinion of the court, at page 515 of the 112 of N. Y.: "We do not think that the rule of the statute goes further than to stamp such communications as confidential, and to protect them from disclosures when objected to, unless the privilege has been competently waived. The rule does not prohibit the examination of such classes of witnesses, but it prohibits the evidence of the character described from being given in the face of an objection."

In other words, although decided, in *Westover vs. Life Insurance Company*, that after death of the patient the privilege cannot be waived by any one, what is tantamount

to a waiver is made possible under this decision of *Hoyt vs. Hoyt, et al*, by simply not objecting.

We thus see that, where it might suit the convenience of the parties litigant, a strict statutory prohibition, alleged to have been enacted on the ground of an all-asserting public policy, for the protection of the patient and no one else, may be evaded by the non-insistence of its provisions on the part of persons who, under the other decisions of the same Court of Appeals, have no right or power to waive it.

So far, however, from condemning such judicial determination as that in *Hoyt vs. Hoyt, et al*, above referred to, I commend it, for it shows the honest struggle of our judges against the enforcement of the strict letter of a bad law, whenever there appears to them to be an excusable reason for its evasion. The granting of justice is their main object, and this is entirely proper, even at a sacrifice of judicial consistency—*stare decisis* to the contrary notwithstanding.

#### DAMAGE CASES.

I shall here cite some cases, the mere perusal of which, I believe, will show the wrong committed in the name of this statutory provision.

A physician, while not permitted to testify regarding answers to inquiries propounded to an injured person, whom he had been called to visit professionally, concerning matter, in which he had no interest or concern professionally, or which were made for the purpose of qualifying himself as a witness, at least where they in any way relate to the injury or to the patient's former condition.

Pennsylvania Co. *vs.* Marion, 7 L. R. A., 687;  
123 Ind., 415; 23 N. E., 973.

The fact that a person consulted a physician in respect to personal injuries is sufficient, in connection with questions whether he conversed with her about her injuries, and if he made an examination of her, to bring questions within the

rule as to privileged communications under N. Y. Code of Civ. Proc., 834.

Feeney *vs.* Long Island R. R. Co., 116 N. Y., 375.

Physicians who treated plaintiff, in an action for damages for assault and battery, may prove the fact of their attendance upon her, but their testimony as to her condition, when knowledge was obtained in their professional capacity, is inadmissible, under Cooley *vs.* Foltz, 48 N. W., 176; 85 Mich., 47.

Where a plaintiff had two physicians during his illness, and calls one of them as a witness in regard to the injuries which caused his illness, he does not waive his right to object to the testimony of the other physician, when called by the defendant, on the ground of incompetency, by reason of the communication between plaintiff and him being confidential.

Mellor *vs.* Missouri P. R. Co., 10 L. R. A., 36; 14 S. W., 758; affirmed in *banc*, 16 S. W., 849.

The privilege of plaintiff against a disclosure of confidential communications to a physician is not waived by her own testimony concerning her ailments and disabilities, which is alleged to be false, and which the physician's testimony is needed to contradict.

McConnell *vs.* Osage, (Iowa,) 8 L. R. A., 778.

A party cannot be asked as a witness whether he is willing to waive his privilege as to confidential communications with a physician.

McConnell *vs.* Osage, *supra*.

The introduction by plaintiff of evidence concerning a consultation between her physician and another physician as to the case is not a waiver of the objection to the admission of the communication from her to her physician.

Record *vs.* Village of Saratoga Springs, 46 Hun., 448.

In an action for personal injuries, necessitating the amputation of plaintiff's leg, the privilege of a physician from testifying as to the condition of plaintiff's leg when he amputated it is not waived by the bringing of the action, and offering testimony to the fact that the leg was broken, nor by the fact that defendant after the accident sent its physician to plaintiff, and at the trial examined him fully in relation to the plaintiff's injuries.

*Jones vs. Brooklyn B. & W. E. R. Co., 3 N. Y. Supp., 253.*

The provisions of this law, together with the decisions of the courts regarding the same, are now before the Medico-Legal Society. I am satisfied that the medical fraternity will deem the abrogation of the rule of privilege, so far as as they are concerned, a revolutionary measure, leading necessarily to calamitous results. Some uninformed and superficial persons may go so far as to assert that the repeal of the present statute relating to the privilege of physicians will inevitably result in social chaos; but if they stop to consider that the majority of the States and Territories of the United States, including those most advanced in science, religion, and educational matters generally, and in which we find a calm, dignified social serenity, have no such rule of privilege, and that many of the great nations of the world do not recognize such a rule, their horror-stricken faces and up-lifted hands will assume their normal condition, and reason will assert its sway over pure sentimentalism. Let it be remembered that it is not all confidential information that may not be disclosed, but only such confidential information as is necessary to enable a physician to act professionally. All cases of privilege refer solely to information given to allow of professional service, whether by a lawyer, physician, or priest. Otherwise the confidence is no more protected than if imparted to a layman. Confidence as such should be deemed just as

sacred when imparted to a layman as when entrusted to a professional man, and its unnecessary divulgence is in all cases equally wrong, morally considered. If it were the mere confidence that the law wished to protect, it would prohibit its disclosure by laymen as well as by professional men. If individual character were the matter of anxiety to the law, we would expect to see the rule enacted and enforced as to all confidences involving moral turpitude. As the reason of the existence of the rule, so far as physicians are concerned, appears to be the guarding of reputation by sealing the mouth of the attending physician as to what he has heard and seen whilst treating his patient, it would not be unreasonable to assume that if the seal were removed, the patient would be disgraced and afflicted. I have yet to learn that, in order to enable a physician to act professionally in a matter of physical disease, any facts degrading to the patient have to be stated. Certain diseases, it is true, indicate immoral and indecent habits, but when the rights and interests of others demand that an individual's condition or cause of death be known, can it with any justice be said that they should be kept forever secret. One might as well attempt to successfully maintain that public policy is less important than private reputation.

I hope the members of the Medico-Legal Society will give this matter careful thought, and exert themselves in an effort to have repealed or modified a law, which, in my humble opinion, is one of the greatest obstructions in the paths of justice.

# THE SEAT OF LANGUAGE AND LINGUAL DISEASES.\*

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BY WILLIAM STRUTHERS, OF PHILADELPHIA, PA.

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To hear a person in ordinary conversation talk about his or her "memories," would, no doubt, strike the majority of people as a great eccentricity of expression; yet, with the increasing popularization of science, such a way of speaking may presently become common amongst us. A sufficiently well-known fact has determined the localization of human speech within the third left frontal convolution of the cerebrum near what goes by the name of the Sylvian fissure, or fissure of Sylvius. But another and much more recently established fact is the authenticated knowledge of the existence of separate and distinct memories within the human brain.

So frequently do we now hear employed the term *aphasia* that it seems hardly necessary to give the signification thereof, namely, loss of speech, or rather loss of the intelligent and intelligible use of speech, without a corresponding impairment or destruction of the intellect itself. There arises a partial or even a total inability to make use of verbal signs, an eminent example whereof being Ralph Waldo Emerson, who, during the last years of his life, manifested, with scarcely any indications of mental decline, a great difficulty in making himself understood by words. More than a score of experiments bore witness to the reality of the local habitation of language and its maladies, without convincing the scientific world, and the patient investi-

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\*Read before the Medico-Legal Society, June 8, 1892.

gator of the subject, Brocca, encountered the usual mistrust and oppositions.

Interesting enough are the corroborating illustrations educed by him and by others, and he received positive assurance of the trustworthiness of his discovery from the fact that any injury done to the little gray patch of cerebral substance on the left side of the brain, in the place above-mentioned, occasioned disturbances of speech, whereas nothing similar occurred when the corresponding gray matter on the right side of the brain was tampered with.

As not seldom happens, the solution of one problem cast a ray of light upon other obscure questions, and led in this case to an acquaintance with the existence of separate memories.

There is a lingual visual memory, an auditory memory of the same kind, and what may be termed a *nervo-motor* memory, whose character is well illustrated by the case of a person who, showing perplexity in the recognition of words by sight and by sound, discovers that, by writing them down, he recovers their lost signification. Visual memory of words, when impaired, has not unfelicitously been called *mental blindness*, and may co-exist with auditory and *nervo-motor* sanity.

Of the various memories, that of the ear appears ordinarily to be the most active, quite naturally, by reason of the earlier familiarity of this memory with verbal expressions, since a large stock of words is commonly in one's possession long before there is any acquaintance with the same through the media of reading and writing. In fact, there are many persons who never represent words to themselves except by the sound thereof, and, consequently, if any injury occurs to their auditory mnemonic centre, they are particularly embarrassed in the expression of thought.



Then there are those who, less often met with, have the keenest mental vision of words, without any power of auditory remembrance, and so, if the visual memory becomes diseased, can obtain no aid from the auditory memory.

Then, again, we find people in whom none of the mnemonic centres are affected in themselves, but merely disabled through lack of conductive media, when, as sometimes happens, not the gray matter, but only the white afferent fibres of the mental apparatus have suffered hurt. Such folk sink into a veritable "slough of despond" in the use of words, misapplying terms, and miscalling and confusing, generally, everybody and everything, to the utter discomfort of themselves and their friends. This condition has received the name *paraphasia*, aptly so termed, for it would certainly seem to be an all-around racket.

To be sure, we have spoken only of instances of a partial lesion of the memories; but when all the mnemonic centres are deserted, then assuredly the patient's condition becomes desperate. For, with simply a partial loss of the memories or the paralysis of a single memory, there presumably remain good grounds for improvement. Especially is this apparent in reference to the loss of but one kind of memory, because by carefully and constantly exercising a different one, a substitute may be found; and a man used to recalling words by sound only might, for example, on being deprived of that faculty, so wisely discipline the visual memory as to regain command of intelligent utterance, and eventually, likewise, of his lost auditory memory, perhaps through the reaction of the one centre upon the other.

To the terms *aphasia*, *mental blindness*, and *paraphasia*, we should add *amnesia*, a comprehensive designation of memory failure; *mental surdity*, or *deafness*, loss of the auditory memory; and *agraphia* or *agraphy*, the inability to

exercise the nervo-motor memory, whereby the patient forgets how to write, while recollecting words in other connections. It is curious, also, to remark that, according to Professor Lombroso, all known races are right-handed, and all classes of men, except the criminal class; and as the mnemonic nerves decussate, or cross one another, on their passage from the cerebrum to the surface, the presence of the seat of language on the left side of the brain is but another indication of the natural selection that has rendered hereditary, for the most, the preference of the right over the left side in the matter of manual usage.

Yet what complexity is the outcome of such prying into "the in'ards" of that mysterious Mnemosyne, of yore regarded as one and indivisible! Moreover, it is whispered nowadays, under the scientific rose, that the brain itself is, in the mental acceptation, a divided house; that the one half is, in fact, a sort of register, or storehouse, for the other moiety, and that ere long it will furnish the key for the solution of many a riddle touching the resuscitation of the forgotten, and the meaning of divers second-sight phenomena.

It really begins to look as though, grown emulous of the Time Spirit, and jealous of mankind's possession of an attribute supposed indubitably to indicate a superior degree of refinement and civilization, Dame Nature had resolved to extend the subdivision of labor upon her own private premises, and was, as always results when she interests herself in any affair, about to conduct the work with an intricacy of detail whose complexities should put to the blush all attempts of lesser agencies to exhibit their cleverness in that line.

Who, indeed, can say how far the partitioning may progress? Not only may she end by manufacturing memories for each of the senses, but likewise add thereto mnemonic

receptacles for every class of words, so that the little gray spot nigh the cerebral fissure of Sylvius may eventually become a wonderful, microscopic strong-box, with a niche for every sort of lingual coin, bond, and bit of scrip, and a combination lock on each compartment, to thwart the thievish tendencies of curious and too venturesome investigators in the employ of Science!

## TRANSACTIONS.

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### MEDICO-LEGAL SOCIETY—APRIL MEETING.

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PRESIDENCY OF JUDGE H. M. SOMERVILLE.

Society met at the Hotel Imperial at 8 o'clock p. m., April 13, 1892, the President, Judge H. M. Somerville, in the Chair. Clark Bell, Esq., acted as Secretary.

The reading of the minutes of the March meeting was deferred, on motion.

On recommendation of the Executive Committee, the following were elected members:

#### ACTIVE MEMBERS.

Proposed by Judge H. M. Somerville: Macgrane Cox, Esq., 43 Wall street, N. Y.

Proposed by Dr. Thomas Cleland: J. S. Messenger, M. D., 163 Spring street, N. Y. City.

Proposed by Dr. B. H. Wallace, M. D.: Frank C. Hoyt, M. D., Pathologist of the State Lunatic Asylum, St. Joseph, Mo.

Proposed by R. R. Haines, Esq.: Edward Raymond Ames, Esq.

Vice-President Albert Bach, Esq., then read a paper entitled "The Medico-Legal Aspect of Privileged Communications."

The paper was discussed by Judge Somerville, Clark Bell, Esq., Dr. I. N. Quinby, M. Ellinger, Esq., Mathew D. Field, M. D., and the discussion closed by the author, Mr. Bach.

It was moved and seconded that Mr. Bach's paper relating to proposed modifications of the existing law pro-

hibiting the giving of evidence by physicians of information derived professionally, be printed in the JOURNAL and discussed at a future meeting.

Mr. Clark Bell made an address upon the life and character of Prof. Simeon Tucker Clark, Professor of Medical Jurisprudence in the University of Niagara, Medical Department, alluding to his high career of usefulness in his profession, his pure and blameless life, his labors for the success of the Society, his contemplated paper before the International Medico-Legal Congress of 1893, and his untimely death. At the close of Mr. Bell's remarks, the following resolution was adopted unanimously :

*Resolved*, That the Medico-Legal Society learns with profound regret of the death of Simeon Tucker Clark, M. D., of Lockport, N. Y., Professor of Medical Jurisprudence in the University of Niagara, and the Secretary is directed to express to the family of the deceased the profound sympathy felt by all members of the body at the loss of the deceased member.

Mr. Bell then announced the death of the following members :

E. A. Snow, of the Boston bar; Joseph Draper, M. D., Superintendent Vermont State Hospital for Insane, an old and valued member; S. Hepburn, Jr., of Carlisle, Pa., who has for years taken a great interest in the Society and its labors; F. M. Keener, M. D., a new member, recently elected; Judge James H. Peters, of the Supreme Court of Prince Edwards Island, upon the active list; and upon the corresponding list, of C. Meymott Tidy, of London; Dr. Lucien Puteaux, of Paris; Chief Justice William C. Ruger, New York Court of Appeals; Chief Justice Royce, of the Supreme Court of Vermont; Chief Justice Ray, of Missouri, paid a tribute to the memory of the dead, and passed encomiums upon Dr. Draper, Judge Peters, of Prince Edwards Islands, Chief Justices Royce, Ray, and Ruger, and

to the memory of Meymott Tidy, and spoke of the great value of his life and labors to the science of Medical Jurisprudence.

Judge A. L. Palmer, of St. Johns, N. B., spoke in high praise of the life and career of Judge Peters, of Charlotte-town, in the Province of Prince Edwards Island, and of the many virtues of his pure and blameless life.

Dr. Mathew D. Field spoke of the life and services of Dr. Joseph Draper, and moved the appointment of a committee directed to prepare appropriate resolutions expressive of the regret the Society felt at the bereavement.

The Chair appointed M. D. Field, M. D., Clark Bell, Esq., and Edward Cowles, M. D., as such committee.

The Society adjourned.

H. M. SOMERVILLE,  
*President.*

CLARK BELL,  
*Secretary.*

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### MAY MEETING.

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ALBERT BACH, ESQ., VICE-PRESIDENT.

The May meeting was held at Hotel Imperial on the 11th May, 1892, Vice-President Albert Bach in the Chair.

The minutes of the March and April meetings were read and approved.

The following persons were duly elected, on the recommendation of the Executive Committee:

#### ACTIVE MEMBERS.

Proposed by Dr. G. R. Trowbridge: Dr. John E. McCuaig, assistant physician Pennsylvania State Hospital for Insane, Danville, Pa.

Proposed by W. H. McIntyre, Esq.: Hon. James O'Brien, Chief Justice of New Mexico, Albuquerque; Dr. T. P. O'Keefe, LL. D., Raton, New Mexico; J. D. Leahy, Esq., Raton.

Proposed by Clark Bell, Esq.: Mr. W. C. K. Wilde, The Gerlach, New York City.

Proposed by ex-Judge Daley: Fred E. Crane, Esq., 16 Court street, Brooklyn, N. Y.

Proposed by Dr. Matthew D. Field: Judge D. J. Brewer, Justice Supreme Court of the United States, Washington, D. C.

Proposed by Dr. DeMoise: Dr. R. Assenta, 25 Prince street, City.

#### CORRESPONDING MEMBERS.

Proposed by Clark Bell, Esq.: Prof. Harold N. Moyer, Chicago, Ill.: Dr. D. Yellowlees, ex-President British Medico-Psychological Association, Royal Insane Asylum, Gartnavel, Glasgow, Scotland; Dr. Alex. Robertson, physician to the Royal Infirmary and City Parochical Asylum, Glasgow, Scotland; Dr. Richard Green, Superintendent County Insane Asylum, Berry Wood, Northampton, England; Judge Pardon E. Tillinghast, Supreme Court of Rhode Island, Providence; Judge George A. Wilbur, Supreme Court of Rhode Island, Providence; Judge John H. Stiness, Supreme Court of Rhode Island, Providence; Judge Samuel Lumpkin, Supreme Court of Georgia, Americus; Hon. Robert S. Green, Elizabeth, N. J.; Formad Merlin, Interne Des Hopitaux de St. Etienne, (Loire,) France; Dr. Isidore Dyer, New Orleans, La.

Mr. Clark Bell then read a paper entitled "The Mac-Naghten Case in England."

This paper was discussed by Dr. Robert Reyburn, Vice-President of the American Microscopical Society, of Washington, D. C.; Mr. Charles Ernest Pellew, of Columbia College; Clark Bell, Esq., and Vice-President Albert Bach, Esq.

Mr. Clark Bell then read a paper on "Blood and Blood Stains."

This paper was illustrated by stereopticon views of the red blood corpuscles of human blood, and many of the domestic animals, birds, and amphibia, under low and high diameter power, with reference to the average size by diameters of the corpuscles.

The test by spectrum analysis was also illustrated and that of the haematin crystals in the same manner. Mr. Emanuel I. S. Hart conducted the illustrations, with his new instruments.

The paper was discussed by Dr. Robert Reyburn, of Washington, D. C., Vice-President of the American Microscopic Association, and Dr. Ira VanGiesen, of the Pathological Laboratory of the College of Physicians and Surgeons of Columbia College, and by Mr. Charles Ernest Pellew, Demonstrator of Chemistry at the same College.

These gentlemen, in their remarks, continued the stereoptical illustrations, with additional views of great interest.

Upon the test of haematin crystals, Mr. Pellew made a practical test before the Society from a single thread of a piece of blood-stained cotton cloth, and placed the result under the microscope, producing the crystals similar to those previously shown by the stereopticon.

Mr. Pellew also made a practical illustration of the guaiacum test before the Society, and made a pronounced successful result, with a mere trace of the red coloring matter of blood, from a cotton cloth stained with blood.

Mr. Pellew claimed and demonstrated that the guaiacum test could not be regarded as a reliable one in all respects. He demonstrated that he could produce the same blue color by the use of the same agents on various substances besides blood, and obtained such a result upon the inside of a common raw potato.

He conceded, however, that this test could be relied upon:

1. If tried on stains resembling blood stains, and the blue



color was not produced, it was conclusive that the stains did not contain blood.

2. That upon blood or blood-stains, the slightest particle or shred, no matter how minute, under this test, would produce the beautiful blue color almost instantly.

3. But that, as other substances beside blood produce the same color and results, it could not be certainly stated that when the blue color resulted that this result was certain evidence of the existence of blood.

Mr. Pellew and Dr. VanGiesen also made microscopical exhibits before the Society of the red blood corpuscles in a fresh and a dried state, and produced fresh corpuscles, surviving in the serum, and demonstrated the appearances of the red blood cells, when soaked in media after having been dried, in a single strand of cotton cloth, in the presence of the Society.

In connection with his paper, Mr. Clark Bell read letters upon the present state of scientific knowledge as to the discrimination between human blood and that of mammals, especially of domestic animals, from Prof. John J. Reese, of Pennsylvania; Prof. Theodore G. Wormley, of Philadelphia, Pa.; Prof. Henry F. Formad, B. M., M. D., of the University of Pennsylvania; Prof. Marshall D. Ewell, President of the American Society of Microscopists, of Chicago, Ill.; Dr. R. J. Nunn, Vice-President of the American Society of Microscopists, of Savannah, Ga.; F. W. Draper, M. D., of Boston, Mass.; Charles Heitzman, M. D., of New York City; and Dr. Ira VanGiesen, of New York.

The debate and the illustrations were of the greatest interest, the consensus of opinion favoring the following propositions:

1. That there was no great difficulty in distinguishing between human blood and that of birds, fishes, and amphibia generally.

2. That by careful and competent observers, with instruments of high power, a reliable discrimination could be made between human blood and the blood of mammals, when the size of the red corpuscles was much smaller than that of man, notably the ox, the horse, the goat, the sheep, the pig, and most mammals.

3. That the blood of the dog, the rabbit, and the guinea-pig, so nearly resemble human blood in the size or diameter of the red corpuscles that it was exceedingly difficult, if not impossible, to distinguish between them, and divided opinions upon this subject exist among observers, Prof. Reese, Formad, Reyburn, and others claiming that by the employment of instruments of high powers, up to 10,000 diameters, the difference in diameter becomes so great when thus magnified as to make it apparent in all mammals except the guinea-pig and opossum; while Prof. Ewell and others deny that the results of these investigations are such as to make it certain and absolute when, in doubtful cases, human life is at stake.

4. All concur in the safety of the careful microscopist, who asserts positively "*That the blood examined is consistent with human blood,*" if unwilling to state positively that it is such, or who agrees with the dictum of Prof. Wormley in his masterly treatise that "*The microscope may enable us to determine with great certainty that a blood is not that of a certain animal and is consistent with the blood of man.*" Although some might agree and some dissent from the same author's assertion added to the above quotation: "*but in no instance does it in itself enable us to say that the blood is really human, or indicate from what peculiar species or animal it was derived.*"

The Secretary announced that the paper of Mr. Albert Bach, on "Privileged Communications to Physicians," would appear in June No. MEDICO-LEGAL JOURNAL, and that its discussion would occur before the Society when

members had been offered an opportunity to study the questions involved.

The resignation of Dr. L. L. Mial, as Assistant Secretary, was laid before the body, with his regrets that important business interests had interfered with the proper discharge of its duties.

The resignation was, on motion, accepted.

On motion, the rule was suspended as to filling this vacancy at once by unanimous consent, and on proceeding to a ballot, Mr. Eugene Cohn was elected Assistant Secretary, to fill the vacancy.

The Secretary asked the pleasure of the Society as to delegates to the International Congress of Criminal Anthropology at Brussels, next August, and to other meetings at home and abroad, to which the Society should be represented by delegates.

On motion, the Secretary was authorized and empowered to name delegates to represent this body at the International Congress at Brussels, and at such other congresses or meetings, home or foreign, as would inure to the benefit of the science or of the Society.

The meeting adjourned.

ALBERT BACH,

*Vice and Acting President.*

CLARK BELL,

*Secretary.*

## EDITORIAL.

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### MEDICAL JURISPRUDENCE AND THE UNIVERSITY OF PENNSYLVANIA—IS THIS PROGRESS?

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We have lately received a printed leaflet containing the programme of the proposed four-years' course in the Medical Department of the University of Pennsylvania.

We have noticed with much satisfaction the onward progress of this distinguished institution, in its various departments, within the past few years, and we have been particularly pleased with the steady advance of its renowned Medical School, the oldest in the country, which has been constantly pressing to the front in all the investigations and improvements connected with the great science of medicine. We believe that, with the exception of Harvard, the University of Pennsylvania will be the only school in this country requiring a four-years' course for graduation; although it is well known that even longer terms are required in the European schools.

But a very singular anomaly presents itself in this new prospective programme. Amid the multiplicity of subjects to be taught, and the refinements to which some are to be subjected, there is not the slightest mention of that most important branch—Medical Jurisprudence! It is totally and absolutely omitted and ignored. This omission is so strikingly apparent and so vastly significant as to demand some explanation, and call for some criticism on the part of this journal.

It is well known to many medical and medico-legal men that the subject of Medical Jurisprudence, although taught

in this University for many years past, as a subsidiary branch merely, and that too by a well-known medico-legal authority and writer,\* has never been recognized by the school as being on a par with the other branches, or as essential to graduation. It was left optional with the student to attend the lectures or not, as he might elect, and, of course, only a few did attend, and the branch was practically ignored. The reason always assigned for this admitted omission was the impossibility of crowding so much into a three-years' course. But it was hoped and expected—nay, it was promised, that when the four-years' course was inaugurated, this much neglected branch would receive its proper attention, and be recognized as essential to the student's graduation. But, to our utter amazement, this great branch of science—Medical Jurisprudence—is henceforth to be altogether abolished—totally obliterated from the course of medical instruction to the students of the University.

§ How is this in the face of the now universal sentiment of the medical schools throughout the civilized world? Nearly every second and even third-rate college of this country is now aiming to teach this very branch to its students, as essential to graduation. And further, the State Medical Boards of a large number of the States now require on the part of an applicant for license to practice in said States, evidence of a knowledge of Medical Jurisprudence, and they reject the diplomas of those schools which exhibit no evidence of such instruction. Consequently, it must happen that the diploma of the most venerable medical institution of the country will no longer be recognized by the State Boards of Medicine.

Surely the authorities of the University do not fully realize

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\*Dr. John J. Reese, who resigned his professorship last year, on account of ill health.

the unfortunate position in which their institution will be placed by this most serious blunder. Certainly they must have closed their eyes to the very emphatic resolutions adopted by the International Medico-Legal Congress, at its meeting in New York, in 1889, which declare "that every medical and legal school in the United States shall not only teach Medical Jurisprudence, but, furthermore, shall require it essential to graduation."

We ask attention to this subject in the kindest spirit, hoping to enlist the convictions of the authorities of this important institution in behalf of the matter under consideration.

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#### PRIZE ESSAYS.

The committee of award have decided that the first prize on the essays submitted should be awarded to the essay which appeared in the December and March JOURNALS, entitled "The History and Present Position of the Doctrine of Moral Insanity," signed "*Percute Iterum.*"

The author is A. Wood Renton, Esq., barrister at law, of London. This entitles him to the prize of \$100 offered by Clark Bell, Esq.

The Medico-Legal Society at the same time offered a prize of \$75 for the second best and \$50 for the third best essay.

No decision has yet been reached by the committee as to who is entitled to either of these prizes.

The committee are scattered and each member has to re-read the essays. No member of the committee knows who the authors are. That is known only to Mr. Clark Bell, and the name of the winner of the first prize is given now for the first time.

It is hoped a decision will be reached by the issue of the September number of the JOURNAL.

It is also hoped that the essays in competition may be printed as Vol. 2, of Prize Essays.

## OBITUARY NOTES—DR. CHARLES MEYMOTT TIDY.

Dr. Charles Meymott Tidy was the author of a great work upon medical jurisprudence, and was an official analyst at the English Home Office.

For some years he has been regarded as one of the best among British medico-legal jurists and experts, and has been constantly called as such on the part of the government. The *British Medical Journal* says of him: "That he was a man of clear and vigorous thought, considerable reasoning power, and with a capacity for forcible exposition of his views."

Dr. Tidy had a peculiarly strong predilection for the legal aspect of questions for which his medical knowledge made him all the more able to consider.

He recently qualified as a barrister at law in London for the purpose of practicing before Parliamentary committees, but his death on 15th March, 1892, put an end to a career of great usefulness.

He has been for some years a corresponding member of this Society.

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## SIMEON TUCKER CLARK, M. D.

Dr. Clark was born October 12, 1836, in Canton, Mass., graduated from Berkshire Medical College in 1860, and received the degree of A. M. from Genesee College in 1866.

He commenced the practice of medicine in Lockport, N. Y., in 1861, where he has since resided until his death.

He was a member of the Medico-Legal Society, of the International Medico-Legal Congress of 1889, in which he took a prominent part and was announced to read a paper at the congress of 1893 upon the "Medico-Legal Aspects of the case of *People vs. Spechtel*."

Dr. Clark was appointed to the chair of medical jurisprudence at the Niagara University and was a contributor to

scientific journals regarding mental diseases, in which he took great interest.

Called often as a witness in the courts, he stood very high as a medical expert and medical jurist in Western New York.

Dr. Clark was a man of high character, a fine address, most agreeable presence and manners, a clear speaker, and a devoted friend.

He leaves an interesting family and an unusually large circle of personal friends.

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### LUNACY LEGISLATION IN ITALY.

At the request of the Italian Minister of the Interior, Profs. Lombroso, Tamburini, and Ascanzi have made an examination of the lunatic asylums of Italy, and reported thereon to the government. The salient features of this report are—

That since 1874, when 12,922 lunatics were in Italian asylums, they had increased to 25,000 in 1891, not in the probable increase of lunacy in Italy, but to extending admission to idiots, epileptics, chronic dementia, alcoholics, &c.

That great faults existed as to uniform rules of admission and discharge, inadequate supervision, overcrowding, and want of provisions to protect the property of lunatics. Based upon this report, Senator Nicotera has introduced a bill, which passed the Senate in February last, containing important provisions.

1. To raise the standard of superintendents in ability and power, and to have one assistant doctor to every one hundred patients, and one attendant to every twelve patients, and to exclude idiots, cretins, epileptics, alcoholics, and pellagra, unless shown to be dangerous to themselves or others, or where provision cannot be elsewhere made.

Admissions on application of family, under legal authority



of prefect, subprefect or mayor, who can commit in urgent cases on their own motion.

Harmless lunatics to be placed in special institutions, or permitted to be placed in charge of friends under proper supervision.

Insane can, under restrictions, be sent back on trial, under proper regulations.

Doubtful cases to be kept under observation. The criminal insane to be kept separate and under observation.

Provisions for governmental care and inspection of Asylums.

Increased provision made for criminals who are lunatics.

The new law contains many apparently wise provisions and its practical work will be a matter of great interest.

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### THE BELGIAN CONGRESS OF CRIMINAL ANTHROPOLOGY.

This body will meet in Brussels from August 7th to 14th, 1892, and is to be held under the protection and patronage of the government of Belgium.

Dr. Semal is chairman of the committee on organization, to whom all communications should be addressed at 11 Rue de la Loi, Brussels.

The following delegates have been named from the Medico-Legal Society to this Congress: Clark Bell, Esq., M. Louise Thomas, William C. K. Wilde, Esq., and Jefferson M. Levy, Esq.

## PERSONAL.

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The death of Baron Bramwell removes a conspicuous figure from the English bench.

*Vanity Fair* says of him: "Lord Bramwell was a great man and a great judge, without being a particularly great lawyer. He was homely, bluntly honest, quick at detecting fallacies, and a hater of all 'cant' and false sentiment, and he was admired and respected by all save rogues. He was an unique ornament to the bench, for there has been none like him on it, nor probably ever will be."

The London *Times* speaks in high praise of his life and career. He was a frequent contributor to its columns.

He was eighty-four years of age at his death.

Baron Bramwell made the strongest argument in favor of hanging the insane who committed offenses against the law, notably homicides, of any jurist in our century. He refused to recognize conceded delusional insanity as affecting legal responsibility in cases of homicide, and insisted upon punishing the insane for its deterrent effect and in the interest of, and protection to, society.

No man was more courageous than Baron Bramwell in the support of his convictions, and those who differ with him and shrink from the results of his opinions, can not but admire the ability and force with which he supported views regarding punishment to the insane, counter to the general judgment of mankind.

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Chief Justice Strahan, of Oregon, whose portrait graces this number, will retire from the bench the present summer and resume his old position at the bar of Oregon.

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Senator Th. Roussel, of France, has been elected President of the Société Medico-Psychologique, of Paris.

Dr. Daniel Nicholson, superintendent of the Broadmoor Criminal Lunatic Asylum, England, has been named as a member of the Departmental Committee appointed by the English Home Secretary to inquire into the best mode of treatment and punishment for habitual drunkards.

The other members of that committee are Mr. J. L. Wharton, M. P., Chairman, Sir Guyer Hunter, M. P., Mr. E. Leigh Pemberton, Assistant Under Secretary of the Home Department, Mr. C. S. Murdock, head of the Criminal Department.

The Home Secretary, Mr. Matthews, says, regarding the committee: "Great difference of opinion has arisen as to what kind and degree of punishment for offences committed by habitual drunkards would be the most effectual, both as a deterrent, and with a view to the reformation of such offenders.

"It appears to me that advantage would result from an inquiry being made into the subject."

No one can see the working of the English system of those convicted of crime under the influence of intoxicants to greater advantage than the Home Secretary.

The opinions of English judges have latterly undergone great changes, as reflected by judicial utterances from the bench on recent trials.

No more momentous step has been taken in regard to the criminal responsibility of the confirmed inebriate in our day, than this wise and far-seeing official has inaugurated. Mr. Matthews is one of the ablest men connected with the English government, and I shall look at the result of this action with profound interest.

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#### MEDICO-LEGAL SOCIETY OF CHICAGO.

At the annual meeting held June 4, 1892, the following officers were re-elected :

Judge Oliver H. Horton, President; Dr. Daniel R. Brower, First Vice-President; Dr. James Durry, Second Vice-President; Dr. Joseph Matteson, Treasurer; Dr. Archibald Church, Secretary.

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Dr. Semal, of Mons, Belgium, is chairman of the committee of arrangements for the International Congress of Criminal Anthropology, to be held in Brussels, August 7th to 14th.

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### NATIONAL BAR ASSOCIATION.

The following gentlemen have been appointed delegates to the National Bar Association by J. Newton Fiero, Esq., President New York State Bar Association, pursuant to a resolution adopted last January:

Clark Bell, Esq., New York City.

Nicholas E. Kernan, Esq., Utica.

Walter S. Logan, Esq., New York City.

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Mr. Clark Bell has contracted to edit the American edition of Taylor's Manual of Medical Jurisprudence, to be published by Lea Brothers & Co., of Philadelphia.

This work is intended as a handbook, as well for students as for both professions of Law and Medicine.

The present state of the law, both in England and America, regarding many subjects, will be carefully written by the editor, with reference to authorities in England and the American States, so that the work will be of great value to medico-legal experts and jurists who desire to know what of the decisions are upon questions of law, in regard to forensic medicine.

Lea Brothers & Co. will bring out the volume early next autumn.

THE AMERICAN INTERNATIONAL MEDICO-  
LEGAL CONGRESS OF MEDICAL  
JURISPRUDENCE FOR  
1893.

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OFFICE OF THE PRESIDENT, 57 BROADWAY,  
NEW YORK CITY, JUNE, 1892.

The first session of the International Medico-Legal Congress, held in June, 1889, in the city of New York, was a pronounced success.

The Bulletin of that Congress has been published, containing a large portion of its more valuable labors.

At that session a permanent organization was effected, and it was resolved to hold the second Congress on the occasion of the Columbian Centennial Exposition.

The executive officers were empowered to name Vice-Presidents from each State, Territory, Province, or Country throughout all the world, and to invite the co-operation of students and lovers of the science of Medical Jurisprudence in all lands in its labors.

The following are the officers, so far as the same have been selected :

## OFFICERS.

## PRESIDENT.

CLARK BELL, Esq., of New York.

## VICE-PRESIDENTS.

Chief-Justice Sir John C. Allen, of New Brunswick.  
 Chief-Justice Edward F. Bermudez, of La.  
 Gov. Biggs, of Delaware.  
 Dr. Daniel Clark, of Toronto, Canada.  
 Ex-Chief-Justice Noah Davis, of N. Y.  
 Dr. Edward J. Doering, of Illinois.  
 Prof. John J. Elwell, of Ohio.  
 Judge W. H. Francis, of North Dakota.  
 Dr. W. W. Godding, of Washington, D. C.  
 Dr. Eugene Grissom, of N. C.  
 Dr. Carl H. Horst, of N. H.

Judge Loeke E. Houston, of Miss.  
 Dr. Charles H. Hughes, of Mo.  
 Dr. W. W. Ireland, of Scotland.  
 Prof. Robt. C. Kedzie, of Mich.  
 Dr. Norman Kerr, of England.  
 Dr. Jennie McCowen, of Iowa.  
 Dr. Jules Morel, of Belgium.  
 Dr. Connolly Norman, of Ireland.  
 Prof. John J. Reese, of Pa.  
 Dr. Bettincourt Rodrigues, of Portugal.  
 Judge H. M. Somerville, of Ala.  
 David Steward, Esq., of Maryland.  
 Theo. H. Tyndale, Esq., of Mass.

The following Vice-Presidents have since been named by the President.

Dr. Cyrus K. Bartlett, for Minn.  
 Prof. Dr. Benedikt, for Austria.  
 Hon. C. H. Blackburn, for Ohio.  
 Prof. Brouardel, for France.  
 Sig. J. M. P. Cammao, for Ecuador.  
 Judge Elisha Carpenter, for Conn.  
 Prof. Millen Coughtrey, for N. Zealand.  
 Dr. J. S. Dorsett, for Texas.  
 Judge L. A. Emery, for Maine.  
 Dr. I. T. Eskridge, for Colorado.  
 Dr. Enrico Ferri, for Italy.  
 Dr. Simon Fitch, for Nova Scotia.  
 Judge C. G. Garrison for New Jersey.  
 Dr. Vincent de la Guardia, for Cuba.  
 Prof. Axel Key, for Sweden.  
 Doctor Herman Kornfeld, for Silesia.  
 Prof. Dr. Paul Kowalewski, for Russia.  
 Prof. Dr. J. Maschka, for Bohemia.  
 Dr. Y. R. Le Monnier, for Louisiana.

Sen. Don Rafael Montefar, for Guatemala.  
 Judge A. L. Palmer, for New Brunswick.  
 Doctor Van Persyn, for Holland.  
 Hon. Jas. H. Peters, for Pr. Ed. Isld.  
 T. Crisp Poole, for Queensland, Australia.  
 Dr. Thos. O. Powell, for Georgia.  
 Hon. Hon. Han. Price, for Hayti.  
 Gov. L. Bradford Prince, for N. Mexico.  
 Dr. H. K. Pusey, for Kentucky.  
 Sen. Watson C. Squire, for Washington.  
 Dr. Von Steenberg, for Denmark.  
 Hon. A. M. Alvarez Taladriz, for Spain.  
 Dr. Geo. A. Tucker, for New S. Wales.  
 Senator Andrea Verga, for Italy.  
 Prof. Dr. D. Vleminicks, for Belgium.  
 Prof. Dr. Wille, for Switzerland.  
 Dr. C. E. Wright, for Indiana.  
 Mr. Le Grand Young, for Utah.  
 Sig. F. C. C. Zagarra, for Peru.

## SECRETARY.

MORITZ ELLINGER, Esq., of New York.

## ASSISTANT SECRETARIES.

FRANK H. INGRAM, M. D., of N. Y.

W. J. LEWIS, M. D., of Conn.

The preliminary roll of members of the Congress is as follows:

Abbott, Austin, Esq., New York.  
 Abercrombie, Dr. John, London.  
 Ababarnel, Jacob, Esq., New York.  
 Alien, Sir John C., Fredericton, N. B.  
 Archibald, Dr. O. W., Dakota.  
 Arnoux, Judge Wm. H., N. Y.  
 Bach, Albert, Esq., New York.  
 Backus, Dr. O., Rochester, N. Y.  
 Bacon, A. O., Esq., Savannah, Ga.  
 Baker, Dr. Henry B., Michigan.  
 Ball, Prof. Dr. Benj., France.  
 Baner, Dr. Wm. L., New York.  
 Barbier, Judge, France.  
 Barner, W. A., Esq.  
 Barrister, Dr. H. M., Chicago.  
 Bartlett, Cyrus K., M. D., Minn.  
 Bartlett, Jas. W., Dover, N. H.  
 Barton, Clara, Washington, D. C.  
 Banduy, Prof. J. K., St. Louis, Mo.  
 Bell, Clark, Esq., New York.  
 Bell, W. H. S., Esq., South Africa.  
 Benedickt, Prof. Dr., Vienna, Austria.  
 Bennett, Alice, M. D., Pa.  
 Bentzen, Dr. G. E., Norway.  
 Bergheim, Dr. L., New York.  
 Bermudez, Chief Justice, Louisiana, La.  
 Biggs, Gov., Delaware.  
 Billings, Prof. F. S., Neb.  
 Bianchi, Dr. Leonardo, Italy.  
 Blandford, Dr. G. Fielding, London.  
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 Bond, Dr. G. F. M., New York.  
 Boone, Dr. H. W., Shanghai, China.  
 Bradley, Dr. E. N., New York.  
 Brouardel, Prof., Paris, France.  
 Brouett, Harold E., Esq., Shanghai, China.  
 Brown, Dr. D. R., Chicago.  
 Brown, Harold P., Esq., New York.  
 Brown, Judge Addison, N. Y.  
 Brown, Julius, Esq., Savannah, Ga.  
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 Buckham, Thos. R., M. D., Mich.  
 Buckmaster, S. B., M. D., Wisconsin.  
 Burge, J., Hobart, M. D., Brooklyn.  
 Burnett, Mary W., M. D., Chicago, Ill.  
 Burrell, D. R., M. D., N. Y.  
 Butler, John S., M. D., Conn.  
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 Bnyher, Dr. J. C., Pittsburgh, Pa.  
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 Clark, Dr. Daniel, Toronto, Canada.  
 Clark, Prof. S. Tucker, N. Y.  
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 Contreras, Senor Don Manuel, Mexico.  
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 Crosti, Dr. Domini, Lacatecas, Mexico.  
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 Davies, Wm. G., Esq., New York.  
 Davis, Judge Noah, New York.  
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 De la Guardia, Dr. Vicente, Cuba.  
 Di Moise, Dr. G. Bettini, New York.  
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 Depew, Hon. C. M., New York.  
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 Dillon, Judge John F., New York.  
 Dittenhoefer, Judge A. J., New York.  
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 Doremus, Prof. R. O., New York.  
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 Draper, Jos., M. D., Vermont.  
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 Du Bignon, F. G., Savannah, Ga.  
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 Field, Hon. David Dudley, N. Y.  
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 Francis, Judge W. S., Dakota.  
 Frost, T. Gold, Esq., Minn.

- Furstner, Prof. Dr., Germany.  
 Garofolo, Prof. Dr., Naples, Italy.  
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 Gerry, E. T., New York.  
 Gibbs, Dr. J. W., New York.  
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 Grissom, Dr. Eugene, N. C.  
 Guernsey, R. S., Esq., New York.  
 Gundy, Judge A. A.  
 Gundry, Dr. Richard, M. D.  
 Guth, M. S., M. D., Pa.  
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 Hall, Prof. W. A., Minnesota.  
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 Harris, Hon. J. M., Md.  
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 Harvey, Prof. C. A., N. Y.  
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 Hepburn, S., Jr., Esq., Pa.  
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 Hill, G. H., M. D., Iowa.  
 Hillyer, Judge Geo., Atlanta, Ga.  
 Hitchcock, Harlynd.  
 Hogg, Dr. Jabez, London.  
 Holcome, Dr. Wm. H., New Orleans, La.  
 Holcombe, Dr. W. F., New York.  
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 Hourteloup, Judge, France.  
 Houston, Judge Locke E., Miss.  
 Hoyt, Hon. Henry M., Pa.  
 Hughes, Chas. S., M. D., St. Louis, Mo.  
 Husband, Prof. H. Aubrey, Manitoba.  
 Hutchins, Alex., M. D., Brooklyn, N. Y.  
 Hutchinson, W. M., M. D., Brooklyn, N. Y.  
 Hyatt, Judge S. B., New York.  
 Ill. State Board of Health, Springfield, Ill.  
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 Ingram, F. H., M. D., New York.  
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 Isaac, Judge M. S., New York.  
 James, Col. Ed., New York.  
 James, Prof. Frank L., Neb.  
 Johnston, Dr. F. N., New Brighton, N. Y.  
 Jones, Hon. Ed. F., N. Y.  
 Jones, Joseph, M. D., La.  
 Jones, Rev. Lewis T., N. J.  
 Jones, S. Preston, M. D., N. J.  
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 Kedzie, Prof. Robt. C., Mich.  
 Kerr, Dr. Norman, London, Eng.  
 Key, Prof. Axel., Sweden.  
 Kellogg, Dr. T. H., N. Y.  
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 Kilbourne, Dr. E. J., Ill.  
 Kinkead, Dr. R. J., Galway, Ireland.  
 Knight, Dr. Geo. H., Lakeville, Conn.  
 Kornfeld, Herman, M. D., Grotkau, Silesia.  
 Kowalewski, Prof., Dr. Paul, Russia.  
 Kraft, Ebing, Prof. Dr., Austria.  
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 Library, Court of Appeals, Syracuse, N. Y.  
 Lima, Souza, M. D., Brazil.  
 Lindorne, C. A. F., M. D., Fla.  
 Loewy, Benno, Esq., New York.  
 Lovell, Mrs. New York.  
 Luff, Prof. Dr. Arthur P., England.  
 Lutaud, Dr., Paris.  
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 Magnan, Dr., Paris.  
 Maine, Dr. F. E., Auburn, New York.  
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 Mather, Dr. Ed., England.  
 McAdam, Judge D., New York.  
 McClelland, Dr. M. A., Ill.  
 McCowen, Dr. Jennie, Iowa.  
 McIntyre, W. H., Esq., New York.  
 Mercantile Library Ass'n, Astor Place,  
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 Michael, Middleton, M. D., S. Carolina.  
 Millard, Orson, M. D., Mich.  
 Miller, Frank H., Esq., Savannah, Ga.  
 Miller, Dr. Geo. B., Pa.  
 Milne, Dr. Chas. S., New York.  
 Mitchell, J. Murray, Esq., New York.  
 Moncure, Dr. Jas. D., Va.  
 Monteros, Dr. Jose, Guatemala, S. A.  
 Montgomery, Judge M. W., Washington  
 Morel, Jules, M. D., Ghent, Belgium.  
 Moshier, Dr. E. M., Brooklyn, N. Y.  
 Motet, Dr., France.  
 Mott, Prof. H. A., Jr., N. Y.  
 Mulligan, Dr. E. W., Rochester, N. Y.  
 Nelson, Wm., Esq., N. J.  
 Noble, Dr. C. W., Cleveland, Ohio.  
 Nordeman, H. F., M. D., N. Y.  
 Norman, Dr. Connolly, Ireland.  
 Normile, Judge, St. Louis, Mo.  
 North, Jas. M., Esq., Boulder, Col.  
 O'Dea, Dr. J. J., N. Y.  
 Ogston, Prof. Frank, N. Z.  
 O'Neill, Wm. L., New York.  
 Orme, Dr. H. L., Cal.  
 Owen, Dr. May, Brooklyn, N. Y.  
 Paddock, Dr. Frank K., Mass.  
 Paine, Dr. N. E., Westboro, Mass.  
 Palmer, Dr. W. H., R. I.  
 Palmer, Judge A. L., Fredericton, N. B.  
 Parker, Wm. James, M. D., Tennessee.  
 Parsons, R. L., M. D., N. Y.  
 Peet, Dr. Isaac Lewis, New York.  
 Peixotto, Benj. F., Esq., N. Y.  
 Penard, Dr. Louis, France.  
 Perez, Ed. M., M. D., Buenos Ayres, S. A.  
 Peters, Dr. Supt. Colony at Gheel, Belgium.  
 Peterson, F., M. D., New York.  
 Phillips, Dr. J. W., Burn Brae, Pa.  
 Pinkham, Dr. J. G., Mass.  
 Pompe, Dr. L. H., Holland.  
 Powell, Dr. Thos. O., Ga.  
 Pratt, Joseph Calvin E., N. Y.  
 Prentice, Col. Wm. P., New York.  
 Presby, Silas D., M. D., Taunton, Mass.  
 Pusey, H. K., M. D., Kentucky.  
 Quimby, Dr. Isaac N., New Jersey.  
 Rauch, Dr. J. H., Ill.  
 Reese, Prof. J. J., Pa.  
 Renton, A. Wood, London, England.  
 Rice, Dr. C. A., Miss.  
 Richardson, Dr. H. L., New York.  
 Ringold, Jas. T. Esq., Maryland.  
 Ritti, Dr. A., France.  
 Roberts, J. D., M. D., N. C.  
 Robinson, Henry, Esq., N. H.  
 Rochester, Thos. M., M. D., B'klyn, N. Y.  
 Rodrigues, Dr. Bettincourt, Portugal.  
 Roe, Dr. J. O., Rochester, N. Y.  
 Root, Ed. K., M. D., Conn.  
 Rumells, Dr. O. S., Indianapolis, Ind.  
 Russell, F. W., M. D., Mass.  
 Ruysch, Dr., The Hague, Holland.  
 Sale, Dr. E. P., Mass.  
 Sawyer, Dr. A. J., Monroe, Mich.  
 Schultz, S. S., M. D., Danville, Pa.  
 Semal, Dr., Mons, Belgium.



- Shepard, Chas., H., M. D., B'klyn, N. Y.  
 Shepard, E. F., Esq., New York.  
 Smith, C. Bainbridge, Esq., N. Y.  
 Smith, Nelson, Esq., N. Y.  
 Smith, Q. Cincinnati, M. D., Texas.  
 Smith, R. E., M. D., Missouri.  
 Smith, S. W., M. D., New York.  
 Somerville, Judge H. M., Alabama.  
 Spadaro, Dr. C., Italy.  
 Squire, Ex-Gov. W. C., Wash'ton Ter.  
 Stackpole, Paul A., M. D., N. H.  
 Stanton, Dr. J. V., New York.  
 Stark, Henry S., M. D., N. Y.  
 Stearns, H. P., M. D., Hartford, Conn.  
 Steenberg, Dr., Denmark.  
 Steeves, J. T., M. D., New Brunswick.  
 Stephen Smith, M. D., New York.  
 Stern, Dr. Heinrich, N. Y.  
 Sterne, Simon, New York.  
 Stevenson, W. G., M. D., New York.  
 Stewart, Judge D., Baltimore, Md.  
 Stillings, Dr. F. A., N. H.  
 Stillman, Dr. C. F., New York.  
 Strahan, S. A. K., Northampton, Eng.  
 Stratton, Morris H., Esq., N. J.  
 Strauss, Oscar, Esq., N. Y.  
 Taladriz, Hon. A. M. Alvarez, Spain.  
 Talcott, Dr. Selden H., N. Y.  
 Tallmage, Rev. T. DeWitt, Brooklyn.  
 Taylor, John M., Esq., Conn.  
 Taylor, Dr. Phillip K., R. I.  
 Taylor, Dr. W. H., Mass.  
 Thomas, Julia, New York.  
 Thomas, Mrs. M. Louise, New York.  
 Thwing, Ed. P., M. D., New York.  
 Tompkins, Henry C., M. D., Ala.  
 Tourletto, Dr. L. A., Utica, N. Y.  
 Towne, Dr. Geo. D., N. H.  
 Traver, Dr. R. D., Troy, N. Y.  
 Tucker, Dr. Geo. A., New South Wales.  
 Tucker, Rev. Wm. Ohio.  
 Turner, Henry E., M. D., R. I.  
 Tuttle, Dr. W. L., N. Y.  
 Hedonius, Prof. Dr. P., Upsala, Sweden.  
 Heudrich, Dr. J. J., Voorburgh TeVutch,  
 Holland.  
 Listz, Prof. Franz von Halle, Germany.  
 Upstrom, Judge Wilhelm, Stockholm,  
 Sweden.  
 Moore, Dwight S., M. D., N. Dakota.  
 Dailey, Ex-Judge Abra. H., Brooklyn, N.Y.  
 Clevenger, S. V., M. D., Philadelphia, Pa.  
 Morton, Dr. Thomas G., Phila., Pa.  
 Ewell, Prof. Marshall D., Ill.  
 Levy, Jefferson M.  
 Twitchell, Dr. Geo. E., N. H.  
 Tyndale, Theo. H., Esq., Boston, Mass.  
 Ullman, Hon. H. Charles, Col.  
 Valentine, F. C., M. D., N. Y.  
 Vanderburgh, Dr. E. P., Buffalo.  
 Vanderveer, Dr. A., N. Y.  
 Van Persyn, Dr., Holland.  
 Vaughan, Prof. Victor, C. Ann Harbor, Mich.  
 Verga, Prof. Senator Andrea, Italy.  
 Vlemincx, Prof. Dr. D., Belgium.  
 Von Klein, Dr. Carl H., Ohio.  
 Wait, W. B., M. D., New York.  
 Waite, Herschell, M. D., N. Y.  
 Wallace, Dr. C. H., St. Josephs, Mo.  
 Wallace, Dr. D. R., Texas.  
 Walsh, Dr. J. F., Camden, N. J.  
 Walter, J. F., Esq., New York.  
 Ward, J. W., M. D., Trenton, N. J.  
 Ward, Dr. W. A., Conneaut, Ohio.  
 Wardner, Dr. Horace, Ill.  
 Waterman, Dr. Sigismund, N. Y.  
 Westbrook, B. F., M. D., Brooklyn, N. Y.  
 Westbrook, Judge R. B., Pennsylvania.  
 Weston, Dr. E. B., Chicago, Ill.  
 White, Dr. E. D., New Orleans, La.  
 Whitehouse, Dr. E. E., Batavia, Ill.  
 Wight, Dr. J. S., N. Y.  
 Wilcox, Ansley, Buffalo, N. Y.  
 Wilcox, Geo. D., M. D., Rhode Island.  
 Williamson, Dr. A. P., Middleton, N. Y.  
 Wille, Prof. Dr. L., Switzerland.  
 Wise, Hon. John S., N. Y.  
 Wise, P. M., M. D., Willard, N. Y.  
 Wolff, Arthur S., M. D., Texas.  
 Wood, O. J., M. D., New York.  
 Woods, Dr. Justus O., N. Y.  
 Wood, Dr. W. D., Jamaica, L. I., N. Y.  
 Wright, Dr. Amelia, New York.  
 Wright, T. L., M. D., Ohio.  
 Wyly, Dr. King, Fla.  
 Yandeli, Dr. D. W., Ky.  
 Young, R. E., M. D., Mo.  
 Young, D., M. D., Selkirk, Man.  
 Leffman, Henry, M. D., Phila., Pa.  
 Potter, J. Edward, M. D., Newark, N. J.  
 Wingate, U. O. B., M. D., Wis.  
 Field, Matt. D., New York.  
 Norbury, Frank P., M. D., Danville, Pa.  
 Brown, Milton, Esq., Kansas.  
 Zagarra, F. C. C., Peruvian Legation,  
 Washington, D. C.  
 Keener, A. M., M. D., Indian Terr.  
 Fletcher, W. B., M. D., Ind.  
 Daniels, F. E., M. D., Texas.

It is proposed to hold the session in 1893, in June, July, or August of that year, and, if the necessary arrangements can be made, in the city of Chicago. Due notice of the four days selected and the place to be given hereafter.

A committee will formulate and announce the order of the proceedings, the subjects to be discussed, the arrangement and classification of the papers to be read, and the discussions thereon, which will be sent to all members and published in friendly journals.

The following scientists have already engaged to contribute papers for the Congress:

Dr. Daniel Clark, Superintendent of the Insane Hospital at Toronto, Ontario; "Legal and Medical Definitions in Respect to Insanity and Responsibility."

Dr. S. V. Clevinger, of Chicago, Ill.: "Testamentary Capacity."

Dr. Charles H. Hughes, editor of the *Alienist and Neurologist*, of St. Louis, Mo.: "Change of Character, without Adequate External Indications, the best Criterion of Determining Insanity."

Prof. Dr. H. Kornfeld, the eminent alienist, of Grotkau, Silesia: "Love and Insanity."

Prof. Dr. Kovalewsky, Dean of the University of Khar-koff, Russia: "L'Épilepsie Psychique en Médecine Légale."

Dr. Thomas Morton, of the State Lunacy Commission of Pennsylvania, of Philadelphia: "The Operation of the Lunacy Laws of Pennsylvania."

Dr. Frank P. Norbury, assistant physician Pennsylvania State Hospital for the Insane, at Danville, Pa.: "The Medico-Legal Consideration of Insanity following Traumatism."

Ex-Judge Abram H. Dailey, "Hypnotism in Medical Jurisprudence."

W. S. Watson, M. D., Mattewan, N. Y.: "Relation of Opium Addiction to Public Health and Morals." "Needed Legislation."

The following members of the Congress have consented to read papers, the titles of which will be hereafter announced:

Prof. Benedikt, of Austria; Clark Bell, Esq., of New York; Milton Brown, Esq., of Kansas; Moritz Ellinger, Esq., of New York; Prof. Marshall D. Ewell, of Illinois; T. Gold Frost, Esq., of Minnesota; R. S. Guernsey, Esq., of New York; Frank H. Ingram, M. D., of New York; Henry

Leffman, M. D., of Philadelphia, Pa.; Prof. Mierzejewsky, of St. Petersburg, Russia; Dwight S. Moore, M. D., of North Dakota; Jules Morel, M. D., of Ghent, Belgium; J. Edward Potter, M. D., of New Jersey; Prof. John J. Reese, of Pennsylvania; A. Wood Renton, Esq., of London, England; Judge H. M. Somerville, of Alabama; Edward Payson Thwing, M. D., and Dr. A. W. Mitchell, of New York.

The enrolling fee will be \$3, which will entitle the sender to the Bulletin of the Congress free.

Members of the Congress who receive this circular who have not sent the enrolling fee, will please remit the same, to the President or Secretary, to aid in defraying the preliminary expenditures.

This circular will be sent to some to whom the President is unable to address personally. Those who contribute papers or unite with the Congress will communicate with the undersigned, and forward their names and addresses.

CLARK BELL,

*President.*

MORITZ ELLINGER,

*Secretary.*

## RECENT LEGAL DECISIONS.

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### AN ENGLISH LUNACY CASE OF "FIRST IMPRESSION."\*

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BY A. WOOD RENTON, ESQ., BARRISTER AT LAW, LONDON.

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In the case of *Yarrow vs. Yarrow*, (1892, 8 Times Law Reports, p. 215,) the English courts were called upon for the first time to pronounce an authoritative opinion upon the question whether, and if so, under what circumstances a plea of unsoundness of mind is an answer to a charge of adultery in a petition for divorce. The material facts were as follows: The petitioner and the respondent were married in St. Giles Church, Camberwell, on 10th September, 1874, and cohabited till July, 1890, but there was no issue of the marriage. Sometime after the marriage, the petitioner, who is a coffee merchant, went to South America in connection with his business, taking the respondent with him. On the voyage out she confessed to having led an immoral life for two years before the marriage. In 1886 the petitioner and the respondent returned to England and from that time down to July, 1890, they lived together in Hertfordshire. In that month Mrs. Yarrow expressed a wish to come up to London to consult a doctor. The petitioner offered to come up with her, but she preferred to go alone. Up to 1889 she had been an affectionate wife, but in that year she showed a revulsion of feeling towards her husband. Before and after that time she spoke of poisons intended for her, but did not,

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\*Read before the Medico-Legal Society, June 8, 1892.

to the petitioner himself, accuse him of intending to poison her. Having come to London, in July, 1890, she went into lodging, and on the 31st of that month wrote to her husband that she had been unfaithful to him. Adultery on her part in August and September, 1890, was proved by her own confession and by the evidence of a landlady and there was no cross-examination to it. The respondent has been for some time admittedly insane, and the only questions at issue were: (1) Was she insane at the time when she committed adultery, and (2) If so, was he irresponsible for its commission? By way of answer to the first of these questions it was proved, (*a*) that the respondent had been delirious before and at the critical period; (*b*) that she knew both the impropriety and the legal results of adultery; and (*c*) had, in fact, committed adultery with the desire and intention of procuring a divorce from her husband. She was, therefore,—and here we come to the second question—at least as much entitled to an acquittal as either Hadfield or MacNaghten. But the president of the probate admiralty and divorce division, the Right Hon. Sir Charles Butt, held that *Rex vs. Hadfield* had been impliedly discredited by “the rules in *MacNaghten’s case*,” (10 Clark and Finelly, 200,) that *mere* delusion never destroyed legal responsibility, and that the petitioner was entitled to a divorce if the respondent knew the nature of her act and its legal consequences.

## JOURNALS AND BOOKS.

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STATE BOARD LUNACY AND CHARITY OF MASSACHUSETTS. 13th Annual Report, (1891). A most valuable report as to the state of the insane and dependent classes in Massachusetts. The most interesting subject is that "of the Boarded-out Insane." The report is most reprehensible. It is apparent that the Board is unfriendly to the movement, which is most unfortunate, because the action of Massachusetts was splendid in initiating this subject, and reflected great credit on its original promoters. It is a great pity this most commendable advance movement in lunacy reform should not have more zealous friends in the present Board. Think of the ideas of a Board that would justify such a report as the following, after the example of Gheel, of Scotland, and of the German experiments:

"The effect upon the family and the community where insane persons are sent to live. Certainly they should never be placed in homes where there are or likely to be young children, even though parents should be anxious to receive them."!!! The exclamation points are mine. Again, after much similar comment, wholly uncalled for, and without force anywhere except in such narrow minds:

"A colony like that at Gheel would not be tolerated in Massachusetts, and even if homes of the grade of the Scotch Crofters could be found here, they would not be regarded for an instant as suitable places for our insane boarders."

Such bigotry, and such ignorance of Gheel and of the movement in Scotland are amazing, and if this feeling exists in the Massachusetts Board, we may well expect to see the effort in Massachusetts strangled in the house of its friends.

I recommend to this Board to let some one of ordinary intelligence visit Gheel, Lierneux, Scotland, and the movement in Germany, and then see if the condition of the insane in either of these places is not infinitely preferable to that of the insane in the best State institution in Massachusetts or the world. It is the imprisonment, the forced confinement, and the feeling of being shut out of the world that makes the terror of asylum life so appalling to many insane minds, which is so completely and beneficently met by these efforts; and is it not monstrous to say that a harmless, though incurable, and invalid insane woman, shall never hear the prattle of children's voices, or the feeling of a home, that the child of a Scotch Crofter compares to paradise.

Were I insane, I should choose the cottage of the Scotch Crofter, or of the Belgian family at Gheel, which I have visited, and know whereof I speak, a thousand times before the State institutions of Massachusetts, and it would be to the glory of Massachusetts if she could lead the movement to found in New England a colony like that at Gheel, capable of doing one-half

the work, or alleviating one twentieth part of the human misery that the colony at Gheel has accomplished.

An excellent paper by Dr. A. R. Moulton, on Lunacy Administration in Scotland, appears in the same report. It is a good antidote for the views of the Board on boarding-out the insane.

**THE PRACTITIONERS' JOURNAL**, Vol. 1, No. 1. The first number of this Journal has been sent us. Issued in April 1892. Published at Kingston, N. Y. We shall watch with interest whether such a journal can succeed, which proposes no new field, and is a fair sample of medical journals, of which we have so many that it is a marvel how they exist and pay their way. It is as good as dozens of others, but is it of sufficient merit to enlist the medical profession, and does it offer anything at all comparable to the higher grade of medical journals?

**ANNALS OF OPHTHALMOGY AND OTOTOLOGY**, Vol. 1, No. 1. James P. Parker, M. D., Editor, Kansas City, Mo.

This is a new Quarterly, and if the initial number is any criterion of those to follow, the journal will at once take front rank in its domain. Its New York collaborator is Dr. M. D. Lederman, from Chicago, Drs. Casey A. Wood and T. Melville Hardie, and the other is Dr. B. E. Freyer, of Kansas City, Mo.

**CONDENSED EXTRACTS**. Dr. Ferd C. Valentine has launched a new monthly journal under the above title.

It is selections from medical journals, in all languages except the English. It costs only \$1.00 a year, and is worth about three times that amount to any practitioner, specialist, or editor.

The selections are classified under an index heading.

If the profession are made aware of the fact that they can secure the gleanings of all the medical journals in foreign languages, at this reduced price, it would be in universal demand.

**ABROAD AND AT HOME**. By Morris Phillips, Brentano, New York, 1891.

Morris Phillips has made travel a study. To know how to travel, and to get at the meat of a country and the best of a great city, is with him a science, perhaps an inspiration.

He has a trained eye and a knowledge of what is worth seeing.

Love of and taste for travel is perhaps a gift, which he possesses in rare excellence.

His recent book is better than a guide book. It reads like a good novel.

**CRIMINAL RESPONSIBILITY IN INSANITY**. By T. Duncan Grenlees, M. B., Edin, J. P., Superintendent Garshamstown Asylum, Capetown, South Africa.

Dr. Grenlees' brochure relates more especially to epilepsy, and he takes a broad and comprehensive view of the subject. His references to American cases and authorities show that he keeps abreast of the question and its development in all countries.

He notes the steady advance made in all civilized countries in placing the epileptic under that protection which the law throws around the insane, and calls upon his medical confrères to aid the movement to place the jurisprudence of the British colonies upon the same advanced plane.

THE JOURNAL OF MENTAL SCIENCE. The April number (1892) of this excellent quarterly contains an admirable criticism of Sir Henry James' recent letter on drunkenness and crime in his correspondence with Sir Lyo Playfair in the *London Times*, and contrasts Sir Henry James' statement that "Inebriety is an *exculpatory* plea only when it has established a condition of positive and well-defined insanity," with recent English judicial utterances, notably that of Mr. Justice Day's charge to a Lancaster jury in 1866: "That if a man was in such a state of intoxication that he did not know the nature of his act, or that it was wrongful, he was insane in the eye of the law, and that it was perfectly immaterial whether the mental derangement resulting from such intoxication was permanent or temporary."

Also with that of Chief Baron Palles, in a case holding in 1887:

"If a person from any cause, say long watching, want of sleep, or deprivation of blood, was reduced to such a condition that a smaller quantity of stimulants would make him drunk than would produce such a state if he were in health, then neither law nor common-sense could hold him responsible for his acts, inasmuch as they were not voluntary, but produced by disease."

And to the case in 1888, where Baron Pollock held that the law was the same where insane predisposition, and not physical weakness, was the proximate cause of the intoxication.

It is barely possible that Sir Henry James has overlooked the recent trend of English judicial thought as to the responsibility of the inebriate, and the fact, now quite generally conceded, that inebriety is sometimes as clearly a case of seated disease as certain forms of insanity itself, and must be treated in a similar way.

He seems also oblivious to that under-current of English public sentiment that has led the home secretary to name a commission of inquiry upon questions connected with this subject of great public moment, and which Sir Henry James might consider as a jurist with great interest and profit. I fully endorse Dr. Hack Tukes' critique.

"THE WEEKLY BULLETIN OF NEWSPAPER AND PERIODICAL LITERATURE," published at 5 Somerset street, Boston, is twice its usual size containing a classified index of 1,300 articles from recent numbers of the periodical press.

The Bulletin catalogues the important articles in the leading daily and weekly papers and the monthly magazines of the United States and Canada.



## BOOKS, JOURNALS, AND PAMPHLETS RECEIVED.

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Chief Justice Bermudez, of Louisiana.—Succession of Widow Bertrand  
de Loy. (April, 1892.)

Théopile Roussel, Senator of France.—Depopulation de la France.  
(1891.)

State Board of Lunacy and Charity of Massachusetts.—13th Annual  
Report. (January, 1892.)

Hon. A. C. Chapin.—Free Coinage of Silver. Speech in Congress.  
(1892.)

Medico-Legal Society of Chicago.—Papers and Discussion of March 5,  
1892, on "Plea of Insanity," by Dr. Richard Dewey, M. D.; "Experts  
and Expert Testimony," by Harold N. Moyer, M. D.

John H. Rauch, M. D.—11th Annual Report Illinois State Board of  
Health and Official Register of 1892.

Clark Bell, Esq.—Medico-Legal Studies. Vol. 2. (1892.)

T. D. Crothers, M. D.—Papers read before the Section of Medical Juris-  
prudence of the American Medical Association at Washington, D. C.,  
May 5-8, 1891.

L. W. Baker, M. D.—Dipsomania. (1891.) Semi-Private Case of Epi-  
ptics. (1891.)

Hon. J. M. Rusk, Secretary of Agriculture.—Album of Agricultural  
Statistics, U. S.

Alabama State Bar Association.—14th Annual Meeting. (1891.)

Michigan State Mining School.—Catalogue. (1890-1891.)

A. Laphorn Smith, M. D.—Abdominal Hystereotomy for Fibroids.  
(1891.)

J. H. Vail & Co.—Register of Nurses. (1891.)

Dr. Von Kornfeld.—Eingetricbeuer Nagel in den Schädel—Eigese  
der fremde Schuld?

Central University of Kentucky.—Catalogues in Medical and Dental  
Departments. (1892.)

W. Cheatham, M. D.—Tumors, Pharynx, Larynx, and Esophagus.  
(1891.)

Robert H. M. Dawbarn, M. D.—Hemorrhage, new treatment; Water  
as a Local Anæsthetic.

Frank S. Billings, M. D.—Preventive Inoculation. (1890.) Animal Aecconomics. (1891.) Science of Inoculation. (1891.)

New York Home for Intemperate Men.—13th Annual Report. (1891.)

Dr. Horatio R. Storer.—Medals of Princess Charlotte of England, Queen of the Belgians.

Henry H. Remfrey, Esq.—Codification of Law in India. (1891.)

Chief Justice Horton—8th Annual Report State Bar Association of Kansas. (1891.)

William F. Drewey, M. D.—Transactions of Medical Society of Virginia, 22d session, 1891.; Report on Advances in Neurology and Psychology.

F. A. Bryant, Esq.—How Stammering May Be Cured. (1890.)

John M. Bery, Esq.—Proportional Representation. (1892.)

John S. Billings, M. D., LL. D.—Ideals of Medical Education. (Yale University address, 1891.)

M. Habets.—Rapport Sur l'industrie des Soudages. (Class 48, Exposition at Paris, 1889.)

Richard Dewey, M. D.—Work and Organization of Hospitals for Insane. (1892.)

J. T. Eskridge, M. D.—Sub-Acute Multiple Neuritis. (1891.) Diagnosis and Nature of Functional and Organic Nervous Diseases. (1891.) Tumor of the Brain. (1892.) Poliomyelitis with Perineuritis. (1891.)

American Bar Association.—14th Annual Meeting, Boston, 1891. (Transactions.)

Charles Edgeworth Jones, Esq.—Political and Judicial Divisions of Georgia. (1892.)

George J. Engelmann, M. D.—Medical Education and Legislation. (1892.)

N. R. Coleman, M. D.—Appeal from Trustees of Columbus Medical College.

Henry F. Formad, M. D.—Study of Mammalian Blood.

M. D. Ewell, M. D.—Proceedings of American Society of Microscopists. (1890.) Study of the Sub-divisions of the first millimeter of "Centimeter A." (1890.) Microscope and Camera in Detection of Forgery—Jerome will case. (1890.) Standard Centimeters Described. (1890.) Effect of Curvature of the Cover-glass upon Micrometry. (1890.) Two New Forms of Stage Micrometers. (1890.)

Granite Monthly.—Portrait and Obituary Sketch of Hon. Daniel Barnard, late Attorney-General of New Hampshire, by M. B. Goodwin.

S. A. K. Strahan, M. D.—Instinctive Criminality. (1891.)

Dr. Arthur Macdonald.—Ethics as Applied to Criminology. (1891.)

Mrs. S. S. Cox.—Memorial Address in Congress on the late S. S. Cox. (1890.)

State Medical Society of North Carolina.—Transactions of 1891. (28th Session.)

American Society for the Prevention of Cruelty to Animals.—26th street Annual Report, 1891.

Bar Association of Texas.—10th annual session. (1891.)

Thomas Stevenson, M. D., F. R. C. P.—Poisoning by *Pois d'Achery*. (*Phaeocolus Lunatus* Lina.)

Baltimore Presbyterian Charity Hospital.—14th Annual Report. (1891.)

Harry C. Jones.—Specimens of Photography. (1891.)

McKesson & Robbins.—Diuretics—Knoll as a Diuretic.

A. R. Urquhart, M. D.—64th Annual Report James Murray Royal Asylum, Perth, Scotland.

Anton VonPalitschek.—Report Deutsche Poliklinik. (1891.)

Selden H. Talcott, M. D.—21st Annual Report Middletown State Hospital for Insane. (1892.)

Charles B. Kelsey, M. D.—Structure of the Rectum.

Edward B. Nims, M. D.—36th Annual Report Northampton Lunatic Hospital. (1892.)

James A. Case.—Statistics of Railways, (U. S.,) 1892.

C. G. Chaddock, M. D.—Visual Imagery of Alcoholic Delirium. (1892.)

A. Van der Veer, M. D.—Cases of Cholecystotomy. (1891.) Tubercular Peritonitis. (1891.) Concealed Pregnancy. (1889.) Case of Hæmatophiltia. (1891.) Retro-Peritoneal Tumors. (1892.)

Dry Goods Trade.—New York and the World's Fair.

G. R. Trowbridge, M. D.—Chorea and Epilepsy. (1892.)

Hon. Alfred C. Chapin.—Free Coinage of Silver—Speech in Congress, March, 1892.

George M. Gould, M. D.—Quackery as an Epidemic. (1892.)

Protection or Free Trade, by Henry George. (1892.)—From Speeches in Congress by Six Members of Congress.

Prof. J. T. Eskridge.—Tumor of the Brain. (1892.) Poliomyelitis with Perineuritis. (1891.)

Charles K. Mills, M. D.—Aphasia in its Medico-Legal Relations. (December, 1891.)

## MAGAZINES.

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AMERICAN LAW REVIEW. The publishers' department of this excellent journal has contributed some excellent chapters on Judicial Poets and Judicial Beards, which is entitled to praise. Among the poets they name Judge Roderick E. Rombauer, of the St. Louis Court of Appeals; Chief Justice Bleckly, of Georgia; and among the bearded judges it includes Judges Valentine, of Kansas; John L. Thomas and Hon. F. L. Dinning, of Missouri; Judge Bartley, of the Supreme Court of Illinois, and Judge Elliott Anthony, of Chicago.

All this is helped out by Hon. James B. Bradwell, of the *Chicago Legal News*, who has invented some new process for engraving portraits of great excellence.

THE ARENA. The two best things in the *Arena* for June are "Who Lies," by Rabbi Scindler, and "Pray You, Sir, Whose Daughter?" by Helen Gardner. We quote from Editor Flower's criticism:

"Pray You, Sir, Whose Daughter?" is far more than an intensely interesting novel; it is a brilliant appeal for justice and purity; a protest against one of the most glaring crimes which blisters the brow of nineteenth-century civilization. It is pure, wholesome, and inspiring. If the white ribbon army should make it the "Uncle Tom's Cabin" of their noble crusade, it would, I believe, accomplish more in one year than their present efforts will realize in a decade. The price also of this volume is within the reach of all, being only fifty cents per copy. It is published by the Arena Publishing Company, Boston, Mass., and is one of the handsomest books of the year.

"Who Lies?" will be found not only amusing and interesting but the reader will admire it for its courage and fearlessness. It is deserving of a wide circle of readers.

THE COLLEGE AND CLINICAL RECORD. R. J. Dunglison, M. D., editor, Philadelphia.

This journal is ably edited, has fine original articles contributed, and is on good paper, but it is very much disfigured by putting its advertisements indiscriminately through the volume, mixed with the reading matter.

It is an absurd and pernicious system, and must seriously interfere with its usefulness.

There is a place for advertisements, but not scattered through the reading matter of a journal.

THE ECLECTIC concludes its volume IV of new series with June number.

We like the article by Frank Podmore. "Defense of Phantasms."

GERICHTSSAAL. Band xlvii., Heft 3 and 4, Stuttgart. Judge M. Stenglein succeeds Prof. Von Holtzendorf as editor of this journal. He is a member of the Supreme Court of the German Empire.

This number contains an article by Dr. Edward Hubrich, on "The Right of Chastisement Only;" Judge Mittelstadt, of Leipsic, on "Culpability and Punishment;" one by Judge Von Bulow, on "Libel of Public Officials and the Right of Public Opinion;" by Judge Hilse, on "The Meaning of the Term 'Place of Occupation' in the German Law of Insurance," and Dr. Damme, Public Prosecutor at Kiel, contributes minor notes.

The journal is kept up to its former standard of excellence.

ARCHIVES DE L'ANTHROPOLOGIE CRIMINELLE. May, 1892. Prof. Benedikt, of Vienna, contributes an important paper, entitled "The Great Criminals of Vienna."

The editor, Prof. Lacassague, contributes important data, entitled "Medico-Legal Notes and Observations."

Medico-Legal examination in a case of falling from a high elevation, with complete skeleton plan of inquiry, to determine whether it was accident, homicide, or suicide.

The number is very interesting, and gives the officers and complete programme of the Brussels August Congress of Criminal Anthropologie.

ARCHIVES DE NEUROLOGIE. Directed by Prof. Charcot; Dr. Bourneville, editor-in-chief.

The May number contains valuable articles. Among them:

Dr. E. Misnt contributes an article on "Somnambulism in Hysteria."

Dr. Magnan one on "Hereditary Degeneracy."

Dr. Camuset contributes Medico-Legal Notes on a case of an Insane Homicide.

A full account is given of the complimentary dinner given Prof. Charcot on the occasion of his decoration as Commander of the Legion of Honor by his confrères.

SKETCHES  
*OF MEDICO-LEGAL JURISTS AND MEDICAL  
MEN, MEMBERS OF THE MEDICO-LEGAL  
SOCIETY, AND OF THE INTERNA-  
TIONAL CONGRESS OF MEDICAL  
JURISPRUDENCE OF 1893.*

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GROSVENOR R. TROWBRIDGE, M. D.

Dr. Trowbridge was born in Buffalo, N. Y., September, 1863. His father was for twenty years in active practice in that city, and his grandfather one of the first physicians who settled in Buffalo.

Dr. Trowbridge received his preliminary education in the Buffalo Classical School, from which he entered Williams College, Williamstown, Mass., graduating from this institution in 1884. The fall of this same year he entered the Medical Department of the University of Buffalo, and after a three years' course was graduated in 1887. This same year he received the degree of A. M. from Williams College. After graduation from the Medical College, he spent a year as Senior Resident Physician of the Rochester (N. Y.) City Hospital. In 1889 he was appointed Fourth Assistant Physician at the State Hospital for the Insane, Danville, Pa., where he still is occupying the position of Second Assistant Physician.

He is a member of the American Medical Association, and at the last meeting was chosen Secretary of the Section of the Medical Jurisprudence and Neurology. He is also a member of the American Academy of Medicine, the Medico-

Legal Society, and the Montour County Medical Society, being President of the latter organization, and a corresponding editor of the *Alienist and Neurologist*.

He is also the author of the following papers:

"Ninety Cases of Paretic Dementia." (*Alienist and Neurologist*, April, 1891.)

"A Case of Brain Tumor Without Characteristic Symptoms." (*Journal of Nervous and Mental Disease*, April, 1891.)

"A Case of Epilepsy with Double Consciousness." (*Medical News*, February 21, 1891.)

"Status Epilepticus," (with C. B. Mayberry, M. D.) (*Journal of Nervous and Mental Diseases*, July, 1891.)

"Mechanical Restraint in Our State Hospital for the Insane." (*Buffalo Medical and Surgical Journal*, March, 1891.)

"The Insanity of Pubescence." (*Alienist and Neurologist*, July, 1891.)

"Two Cases of Empyema." (*Medical News*, May 2, 1891.)

"Relations Between Epilepsy and Chorea." (*Alienist and Neurologist*, January, 1892.)

Dr. Trowbridge has already attained prominence as an alienist, is a close student, a careful observer, and has a career of great usefulness before him.

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#### WILLIAM P. SPRATLING., M. D.

Dr. Spratling was born in Chambers County, Alabama, on October 13, 1863. Took his first course of lectures at the Medical Department of Vanderbilt University, Nashville, Tenn., in 1883, and graduated after two subsequent courses from the College of Physicians and Surgeons, Baltimore, Md. Afterwards served as demonstrator of chemistry in that school,

and later as assistant resident physician in *Maternité* Hospital, Baltimore. After competitive examination, entered the U.S. Marine Hospital service in April, 1886, and served in it for eight months. He left that service to accept the position of Assistant Physician in State Asylum for Insane, at Morris Plains, N. J., a position he has held for the past five years, the last three years and upwards as first assistant.

Dr. Spratling has contributed some works to the literature of his profession.

1. "Primary Dementia," with description of two cases.
2. "The Treatment of the Acutely Insane in General Hospitals."
3. "Moral Insanity."
4. "Acute Delirium as Studied Among the Insane."
5. "Moral Insanity," with report of three clinical cases.
6. "Paranoia," a study of some of the more prominent types, with contributions of three cases.

He visited a large number of asylums in England and on the continent during summer of '91.

Is a member of N. Y. Medico-Legal Society and of the American Public Health Association; and has recently been appointed lecturer on diseases of the mind and nervous system at the New York Post Graduate School of Medicine.

Dr. Spratling is a close student, a careful observer, and stands deservedly high as one of the thoughtful and rising students of mental medicine in his State.

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## JUDGE O. H. HORTON,

OF CHICAGO.

Oliver Harvey Horton is a native of Cattaraugus County, New York, born October 20, 1835.

His father, Harvey W. Horton, a Baptist clergyman, was a native of Vermont. His mother, Mary H. Choate, was born



in Connecticut, and was a relative of Rufus Choate. Young Horton came to Chicago in 1855, and was engaged in the lumber business for three years. He then went South for a time, but returned in 1859. The next year, 1860, he began the study of law in the office of Hoyne, Miller & Lewis.

He was graduated in 1863 from the Law School of the University of Chicago, then, as now, presided over by Henry Booth, late Judge of the Circuit Court of Cook County. He had, however, previously been admitted to the bar.

He was Corporation Counsel for the City of Chicago during the administration of Mayor Roche.

He has been actively connected with moral, religious, and philanthropic work in Chicago. A Methodist in religion, he has been identified honorably and prominently with the Young Men's Christian Association, the Union League Club, and various social organizations.

He has served as President of the Law Institute.

He married Miss Frances B. Gould, a daughter of Philip N. Gould.

He has had a remarkably successful career in his profession, and attained a fine position at the bar before he was elected Judge of the Circuit Court, a position which he now holds.

Judge Horton takes an interest in Medical Jurisprudence, and was one of the original founders of the Medico-Legal Society of Chicago, of which society he is now President.

He is a corresponding member of the Medico-Legal Society of New York, and will take an active and prominent part in the International Medico-Legal Congress of 1893.

His success is due to his signal ability, as well as to the industry and energy which have characterized his life.

## JUDGE WILLIAM H. STEWART.

Judge Stewart was born in Boston, Mass., March 15, 1847, and was reared at East Cambridge, Mass.

He was a pupil of the public schools of Cambridge, graduating from the Cambridge High School in the class of 1864.

Entering Harvard College in class of 1868, in the spring of 1867 he left the university and entered the Law School of Harvard. In July, 1867, he removed to Galion, Ohio, where he continued the study of the law, and in 1868 was admitted to the bar of that State.

In 1873 he removed to Columbus, Ohio, where he has since resided.

Judge Stewart was married at Worthington, Ohio, June 22, 1875, to Clara L. Ogden, a daughter of Hon. John Ogden, now State Superintendent of Schools for North Dakota. Of this union two children survive, Gilbert H., Jr., and Annie.

Judge Stewart won a commanding position at the bar, which was recognized by his election to the bench in 1884. He was chosen as one of the circuit judges of Ohio for the Second Circuit, and served with such general satisfaction that he was re-elected to the same position in 1888. His official term will expire on February 9, 1895.

Judge Stewart has taken deep interest in Medico-Legal studies, and for the past ten years he has held the Chair of Medical Jurisprudence in Starling Medical College, at Columbus, Ohio.

He has recently been elected a corresponding member of the Medico-Legal Society.

Judge Stewart is held in high estimation by the bar, not only of Ohio, but of the American States. He is a graceful speaker, a clear and lucid writer, and his opinions have at-

tracted the attention of the profession for their ability and solid learning.

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### VICTOR CLARENCE VAUGHAN.

Prof. Vaughan was born at Mt. Airy, Missouri, October 27, 1851. Educated by private tutor, he entered Central College, Fayette, Missouri, in 1867, already proficient in Latin. He graduated from Mt. Pleasant College, Missouri, in 1872.

In 1873 he became a teacher in Hardin College, Mexico, Missouri. In 1874 he enrolled as a graduate student in the University of Michigan. He obtained the degree of M. S. from that university in 1875, his thesis being "The Separation of Arsenic from Antimony." He continued his studies in the medical department, making chemistry, animal morphology, and mineralogy his subjects of special study, and was made assistant in the chemical laboratory December, 1875, on account of his proficiency in that branch.

In 1877 he married Miss Dora C. Taylor, of Huntsville, Missouri, and the union has been blessed by four sons.

He graduated from the medical department of the university in 1877. In 1878 he was appointed lecturer on chemistry, and in 1879 was named an assistant professor of chemistry by the Board of Regents. In 1883 he was made professor of physiological chemistry, and in 1887 he was placed at the head of the hygienic laboratory, and has recently been elected dean of the medical faculty of the University of Michigan, at Ann Arbor.

Prof. Vaughan has already a national reputation in hygiene, and is a thorough student of, and prolific writer on, subjects connected with the science.

He is a member of the State Board of Health of Michigan.

In 1888 he spent his summer vacation studying in the laboratory of Dr. Koch, in Berlin. He is a member of the

German Chemical Society, the French Society of Hygiene, the American Pediatric Society, the American Physiological Society, and of various bodies.

His contributions to hygiene are valuable, and too long to enumerate in such a sketch as the present. The *Index Medicus* list alone since 1879 exceeds 50 titles.

His text book of Chemical Physiology and Pathology is a standard work, and is now in its fourth edition.

His paper before the International Medico-Legal Congress of 1889, on "Imbibition of Arsenic," shows great research. His studies embrace causes of disease. No man in America is better equipped for this service, and the future will demonstrate his ability as an original student and discoverer in this field of scientific inquiry. He is a member of the International Medico-Legal Congress of 1893, and of the Medico-Legal Society of New York.

Dr. Vaughan has a fine magnetic presence, is a ready, fluent, and eloquent speaker. He is a splendid *raconteur*, and the University of Michigan is exceedingly fortunate in retaining such an accomplished scientist in its faculty.

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#### HENRY A. MOTT, JR., P. H. D., LL. D.

A grandson of the first Valentine Mott, Henry Augustus, chemist, was born in Clifton, Staten Island, N. Y., October 22, 1852. He was graduated at the Columbia College School of Mines in 1873, with the degrees of engineer of mines and bachelor of philosophy, and in 1875 received his doctorate in course.

Prof. Mott at once directed his attention to technical chemistry, and held consulting relations to sugar, soda, oleomargarine, and other industries. His connection with the manufacture of artificial butter dates from its introduction into the United States, and his process for preventing the crystalization of the butter made possible the commercial success of the product. In the domain of food chemistry

his investigations are numerous, and for three years the supplies that were purchased by the Indian department were examined by him. Dr. Mott has frequently appeared in court as an expert, and he has conducted numerous investigations for private persons. In 1881-'86 he was professor of chemistry in New York Medical College and Hospital for Women. Dr. Mott was the first to question the validity of the wave theory of sound, and asserts that he has shown its fallacy. He has devoted much attention to the so-called "Philosophy of Substantialism," and his latest investigations and papers have been prepared to establish the entitative nature of force, claiming that it has as much objective existence as matter, though not material, also in accumulating data to show the fallacy of the wave theory of sound. He received the degree LL. D. from the University of Florida in 1886, and is a member of the chemical societies of London, Paris, Berlin, and New York, and of other scientific associations. The titles of his scientific papers in various departments of chemistry and philosophy are very numerous. He has published "The Chemists Manual" (New York, 1878); "Was Man Created?" (1880); "The Air We Breathe and Ventilation" (1881); and "The Fallacy of the Present Theory of Sound" (1885).

Dr. Mott has been for years a member of the Medico-Legal Society, and takes a great interest in Medico-Legal studies. For several years he has been the chemist of that society and a member of its executive committee.

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#### HON. GEORGE W. TYLER.

Hon. George W. Tyler was born in Coryell County, Texas, October 31, 1851. Was raised in that State, and received a common school education. Attended the University of Virginia one year, and studied law at the Lebanon Law School, Tennessee, where he graduated in 1874. Immediately en-

tered upon the practice of law at Belton, Texas, and has attained to eminence at the bar. He was a Presidential Elector on the Democratic ticket in 1884, and Chairman of the Democratic Congressional District represented by Hon. Roger Q. Mills from 1886 to 1888. Was nominated and elected State Senator in 1888, which position he now holds, his term expiring in 1893. Was the author of the "Arbor Day" law in Texas, and prominent in the advocacy of the Texas Railway Commission law, the law allowing a defendant to testify in a criminal trial, and other important measures.

Was the orator of the day at the State Annual Reunion of the "Texas San Jacinto Veterans" in 1888.

In December, 1890, he was chosen Grand Master of Masons for Texas, and during his term he visited Mexico and negotiated the "Treaty of Monterey," by which Masonic recognition and mutual reciprocity was brought about between the Masonic fraternities in Texas and the Republic of Mexico. This treaty, which was unanimously ratified by the Grand Lodge of Texas, recently assembled in Houston, is perhaps the most important step taken by this ancient fraternity within a century past, and marks a new era, not only in Masonry, but in commerce and civilization as well.

In 1878 Senator Tyler was married to Miss Sue Wallace, daughter of Dr. D. R. Wallace, of Waco, Texas, and two children—a girl and a boy—have blessed their union. A self-made man, with an active mental organization and ready adaptability for great labor, full of energy, industry, application, and self-denial, he has gradually won his way into the front rank, and he, in the full vigor of manhood, is entering upon a brilliant career of usefulness in his State.

Senator Tyler is interested in legal questions related to medical jurisprudence, a member of the Medico-Legal Society, and has an enviable position at the Texas bar.

## W. S. WATSON, M. D.

Dr. Watson, of River View Home, at Fishkill-on-the-Hudson, was born in 1844, of English parents. He is a nephew of Sir Thomas Watson, late of London. His father, William Watson, was a professor of astronomy and mathematics, who graduated at the early age of 18—, was made professor at 21 years of age, and emigrated to America, settling near Trenton, N. J.

Dr. Watson was educated at the common schools, pursued his medical education at Bellevue Hospital Medical College, where he graduated in 1870, and commenced the practice of medicine in the State of Illinois, remaining there until 1882, when he returned to Dutchess County, New York, recently becoming one of the proprietors of River View Home, an institution founded by Dr. C. M. Kittridge in 1870, where he has since remained, devoting himself to the specialty of nervous and mental diseases, the opium habit, and alcoholic excesses.

Dr. Watson has made a special study of this class of diseases; he is building up a large practice in this specialty at the River View Home.

He is a member of the Medico-Legal Society, of the International Medico-Legal Congress, of the American Medical Association, the American Society for Study and Cure of Inebriety, and of the Dutchess County Medical Association.

Dr. Watson contributed to the *Western Medical News* papers on diphtheria and Bright's disease, and other medical subjects in 1878, 1880, and 1883.

In 1886 he was the author of a paper entitled "Diagnosis of Rectal Diseases, which appeared in *Medical and Surgical Reporter*.

In 1890 he read a paper before the American Medical Association on "Addison's Disease."

In 1891 he published an article on "Opium Inebriety" in *Journal of Nervous and Mental Diseases*, and at the 40th

Meeting of American Medical Association, at Newport, he read a paper on "The Evil of Opium Eating." In 1891 he published a paper in *Medical Progress* on "Inebriety."

Dr. Watson is the inventor of a rectal speculum, now in use in the Gordon Hospital of London and used by many American specialists, and also of a female urethral speculum, highly endorsed in America and by Professor Leon Lafort, of Paris.

He was elected Mayor of Mattewan, a member of the Board of Education, and President of the Mattewan and Fishkill Board of Trade, and holds other public positions in that community, while conducting a large general practice.

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### RICHARD DEWEY, M. D.

Dr. Richard Dewey was born at Forestville, State of New York, December 1, 1846.

His early education was fair, and his preparatory course of study was taken at Clinton, N. Y. He is a graduate of the University of Michigan and holds the diploma of the medical department of that university, issued to him in 1869.

After graduation in medicine he served one year as interne in the Brooklyn City Hospital. He then volunteered as a surgeon in the Franco-Prussian War and served one year. When the State Hospital for the Insane was opened for the insane at Kankakee, Illinois, in 1879, he was made superintendent of that institution, a position which he has since filled with great credit to the State and honor to himself.

Dr. Dewey has deservedly ranked high among American alienists, and has few superiors among asylum superintendents.



The position he has filled at Kankakee, has been one of great responsibility, and he has fully deserved the high estimation in which he is held by the officials and people of Illinois.

He is an honorary member of the Chicago Medical Society, President of the County Medical Society of Kankakee County, and a corresponding member of the Medico-Legal Society of New York.

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### HUBBARD WINSLOW MITCHELL, M. D.

Dr. Hubbard Winslow Mitchell is a native of Boston, born February 20, 1841. He is a graduate of Harvard Medical Department, and secured his degree as M. D. in March, 1862, and at once entered the army in the medical service at Pea Ridge, Arkansas, under General Curtis. He was in the battle of Pea Ridge in hospital service at Cassville, Mo.; ordered to Harrison's Landing, Tenn., and was at the battle of Shiloh, fought by General Grant on April 6-7, 1862, and was in active service on the hospital steamer, *Imperial*, in charge of transportation of wounded to St. Louis.

Transferred to the Army of the Potomac, Dr. Mitchell was in the battle of South Mountain and at Antietam, September 16 and 18, 1862. This service was gratuitous and wholly without compensation.

The government transferred Dr. Mitchell to the United States Navy, and after examination, was commissioned Acting Assistant-Surgeon and assigned to the sloop of war *Ino*, serving in the South Atlantic, the Pacific, and the Indian Oceans. After 13 months' service on the *Ino*, he was assigned to the U. S. frigate *Wabash*, on blockade duty, and took a part in the bombardment of Fort Sumter, in Charleston Harbor. In winter of 1863-4 Surgeon Mitchell was transferred to the gun-boat, *Cimmaron*, of the blockading

squadron. In summer of 1864 he passed examination for promotion, but declined a commission. He was assigned to duty on the U. S. monitor *Manhattan*, of Admiral Farragut's fleet, and was engaged in the capture of Fort Morgan, in Mobile Bay in August, 1864, and dressed the wounds of Admiral Buchanan, Confederate Commander of the ram *Tennessee*.

Sent on same vessel at mouth of Red River, and established a hospital for contraband negroes on shore, in which service he nearly lost his life by guerrillas.

Transferred to the U. S. Marine Hospital, he served during the summer and autumn of 1865. The succeeding winter he was assigned to service at the navy yard at Brooklyn, and served till his resignation in April, 1866.

Dr. Mitchell had the benefit of three years' instruction under Prof. Louis Agassiz, and acquired a taste for biological studies.

Dr. Mitchell, while on duty at Brooklyn Navy Yard in the winter of 1866, attended a course of lectures at the N. Y. College of Physicians and Surgeons, and graduated the second time from that institution in 1866, from which he also holds a diploma. Broken in health by his services in the navy, Dr. Mitchell spent seven years in travel in Europe and in South America, and commenced practice in New York in 1873, when his reputation as a surgeon in the army and the navy brought him into prominence, and he soon acquired a large and lucrative practice.

He is a fellow of the N. Y. Academy of Medicine, and of the State and County Medical Societies, and of several medical organizations.

He is surgeon of the Lafayette Post of the N. Y. G. A. R. He is an active member of the Medico-Legal Society and one of its Board of Trustees, and a member of the International Medico-Legal Congress of 1893.

Dr. Mitchell married Miss Dexter in 1866, a daughter of Theodore Dexter, a prominent merchant of Boston and New York, and a granddaughter of the eminent Boston surgeon of that name.

He is of Puritan stock, his ancestor landing at Plymouth from the "Mayflower."

Dr. Mitchell's most important writing is his recent work, "*The Evolution of Life, or Causes of Change in Animal forms—a study in biology*," which is attracting attention in scientific circles. He is an easy, graceful speaker, highly cultivated, agreeable manners, very courteous, and has a wide circle of social and professional friends.

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#### U. O. B. WINGATE, M. D.

Uranus Owen Brackett Wingate was born in Rochester, Stafford County, New Hampshire, September 4, 1848. His mother was a member of the Wentworth family, and his father was descended from John Wingate, an Englishman who settled in Hilton's Point, now Dover, New Hampshire, some time before 1658. This John Wingate was in active service during King Phillip's war. His descendants fought in the French and Indian wars, and were in active service in the Revolution, and held positions of trust in the colonies.

Dr. Wingate's father died when he was nine years old, and he was obliged thereafter on the farm to assist in supporting his mother, while attending the district school. At thirteen he became a shoemaker's apprentice, but he soon decided to follow the trade of a carpenter. At sixteen he offered his services to his country, then engaged in the Civil War, was assigned to the constructive corps of the United States Military Railroad, joined Sherman's army at Atlanta in time to take part in the burning of the city, and served till the end of the war.

On his return to New Hampshire he entered a machine shop, where he remained but a short time, having determined to educate himself for a profession. He entered the West Lebanon (Maine) Academy, where he paid expenses with money previously saved and such as he earned by teaching. Finding on his graduation that his health would not warrant his taking a college course, he decided to begin at once the study of medicine, making private lessons take the place of the longed-for college course in arts. He began his medical studies with Dr. J. P. Whittemore, of Haverhill, Massachusetts, paying expenses by caring for the doctor's office, keeping his books, and sometimes reporting for a newspaper.

After a year's study with Dr. Whittemore, he entered Harvard Medical School, and after a year at Harvard, entered the Dartmouth Medical School, from which he was graduated in 1874.

He practiced his profession in Wellesley, Massachusetts, from 1875 to 1886, with great success. He was a medical officer in the Massachusetts State Militia for five years, and a member of the Wellesley Board of Health at the time of his removal to Milwaukee, Wisconsin, in 1886. His ability was soon recognized by the medical profession, and at the request of his colleagues, Mayor Peck appointed him, in 1890, Health Commissioner of Milwaukee for a term of four years.

Dr. Wingate is visiting physician to St. Mary's Hospital, and consulting surgeon to the Emergency Hospital of Milwaukee. He is a fellow of the Massachusetts State Medical Society, and has been one of its councilors; is a corresponding member of the Boston Gynæcological Society, and a member of the American Medical Association, the New York Medico-Legal Society, American Public Health Association,

the Wisconsin State Medical Society, the Milwaukee Medical Society, and the Sons of the American Revolution.

He has recently been appointed upon the State Board of Health by the Governor of Michigan.

Dr. Wingate takes a deep interest in Medical Jurisprudence, is a member of the International Medico-Legal Congress of 1893, and stands deservedly high in his profession in Milwaukee. He is agitating the question of a Medico-Legal Society at Milwaukee for the State of Wisconsin.

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### L. L. MIAL, M. D.

Dr. Mial was born July 7, 1862, near Raleigh, South Carolina. He graduated after a four years' course at the University of South Carolina, at Chapel Hill, in 1881, before he attained his majority, receiving the degree of A. B.

He studied medicine in Raleigh, N. C., under Dr. E. Burke Haywood, and in 1884 entered the Medical Department of the University of Pennsylvania, where he took a three years' course, graduating with high honors in 1887.

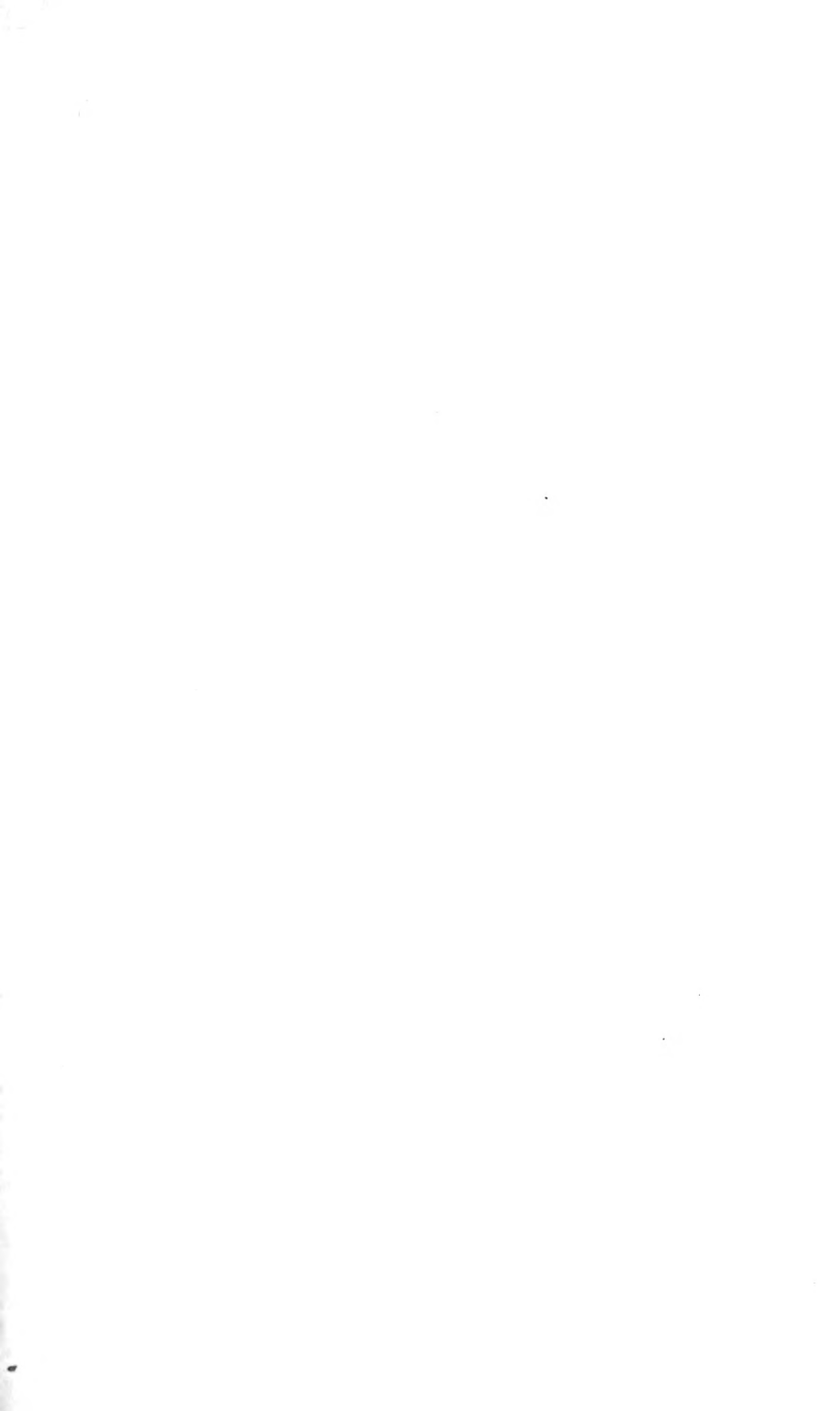
He won first position as resident physician to the University Hospital on a competitive examination, which position he held for fifteen months, when he was offered the place of assistant physician in the New Jersey State Hospital for Insane at Morris Plains, N. J., which he accepted and entered that service, filling the position with ability and credit.

In July, 1891, he resigned that position to enter private practice, and located in the City of New York, where he has since resided and is making his way.

Dr. Mial has devoted great study to mental diseases, and is an alienist of ability and experience.

He takes a deep interest in medical jurisprudence, and is a member of the Medico-Legal Society.

In November, 1891, he was elected Assistant-Secretary of that body, which position he held until obliged to relinquish it on account of professional duties. He is a thorough student, of courteous and agreeable manner, and has a brilliant career before him.





HON. REUBEN S. STRAHAN,  
Chief Justice of the Supreme Court of Oregon.



## HON. REUBEN S. STRAHAN.

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CHIEF JUSTICE OF THE SUPREME COURT OF OREGON.

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BY C. H. CAREY, ESQ.

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The present Chief Justice of the Supreme Court of Oregon is Reuben S. Strahan, who was elected Associate Judge of that court in 1886 and became Chief Justice in 1890. He was born in Kentucky in 1835, but his parents removed a few months later to Missouri, where his boyhood was spent upon a farm. He had the usual advantages of education afforded by a neighboring country school, but added a course at an academy. His ambition and his taste for study led him to adopt the law as his profession, and at the age of twenty-one he began to read law at Louisa, Kentucky, where he was admitted to the bar in 1857. He returned to his home and began his practice at Milan, Missouri, and was appointed Probate Judge of Sullivan County. This position he held for four years, and again turned his attention to his professional practice. But in 1864 he decided to go further west, and finally located at Corvallis, Oregon. Here he at once found recognition of his talents, and he soon acquired an enviable prominence at the bar. In 1868 he was elected District Attorney in the Second Judicial District, and in 1870 State Senator from Benton County. During the years that intervened between his arrival in Oregon and his elevation to the Supreme Bench, a good portion of which he resided at Albany, Oregon, he advanced to the front rank as a trial lawyer, and his practice extended through a wide

section of country, and when he was nominated to the judicial office the citizens laid aside party prejudices, and, regardless of political considerations, proceeded to elect him as the man best qualified for the place. In this the result has proved that the popular judgment was right, for his years upon the bench have but added to the respect and esteem in which he was held. As a judge he has always been quick to apprehend and accurate in statement. His wide experience has enabled him to take a practical view of questions presented for decision, and his opinions, terse and stripped of all unnecessary verbiage, are pointed and precise presentations of the essential facts and principles of law involved. His genial disposition and his uniform courtesy have won for him a host of friends, while his abilities have given his name a permanent place in the history of the courts.

Judge Strahan's term will expire on the first of July, 1892. He will then have served one full term, six years. He could have received the unanimous vote of his party convention for re-nomination; and, although the opposite party has a large majority in the State, he would, in all probability, have been re-elected, for his opinions have been able, concise, and vigorous, his qualifications undoubted, and his services have been fully appreciated, not only by the members of the bar, but by the people also. But he preferred to retire and take up again his practice at the bar, which will undoubtedly prove more lucrative than a seat on the bench at the meagre salary of \$3,500 per year, but the court will lose by his retirement; and, let his successor be who he may, his loss will be deeply felt and regretted.

# MEDICO-LEGAL SOCIETY.

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### *1st Vice-President,*

PETER BRUCE, M. D.

### *2d Vice-President,*

ALBERT BACH, ESQ.

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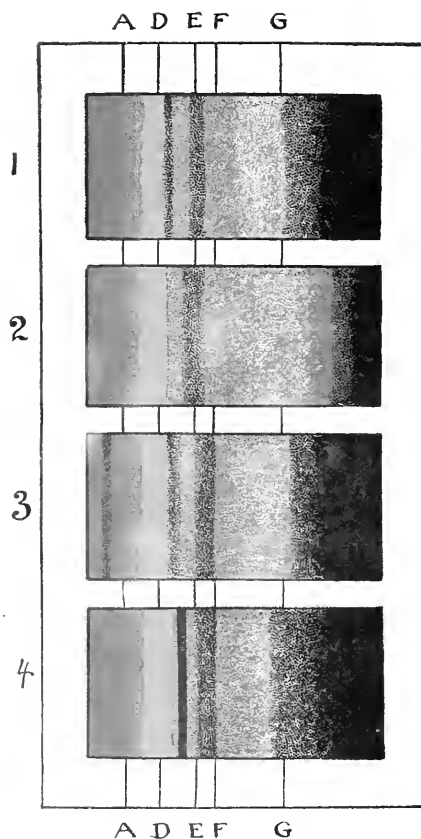
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# BLOOD SPECTRA.



1. Spectrum of Scarlet Hemoglobin, (Oxyhemoglobin.)
2. Spectrum of reduced Hemoglobin.
3. Spectrum of blood after prolonged exposure to air, (Methemoglobin.)
4. Spectrum of reduced Hæmatin.

*From Tidy's Legal Medicine.*



# BLOOD AND BLOOD STAINS IN MEDICAL JURISPRUDENCE.\*

BY CLARK BELL, PRESIDENT OF THE AMERICAN INTERNATIONAL CONGRESS OF MEDICAL JURISPRUDENCE.

The public interest aroused in recent criminal trials, where the identification of blood and blood stains became an important subject of inquiry, has led me to bring to the attention of medico-legal jurists, and the general public, the present state of scientific knowledge bearing upon this subject, with the decisions of the courts regarding it; for the purpose of showing as well what can be ascertained by scientific enquiry as to discriminating between human blood and that of other animals, as to illustrate in a familiar way what is now known, and can be demonstrated by science, with the methods employed by the most skillful, in deciding such questions, so as to make it easily understood by all intelligent persons.

## BLOOD.

Blood in all vertebrate animals consists of small corpuscular structures floating in what has been called blood Plasma or *Liquor Sanguinis*, sometimes called blood Serum. These consists of red corpuscles, white corpuscles, and blood plates, so-called.

## THE RED CORPUSCLES.

The red blood corpuscles afford the best means and the most interesting study of these questions in forensic medicine by the microscope and the micrometer.

Swammerdam first saw them in the blood of the frog in 1658, Malpighi in that of the hedgehog in 1661, and Leen-

\*Read before the Medico-Legal Society, May session, 1892.

\*Read before the American Microscopical Society at Rochester, August 11, 1892.

wenhock in the blood of man in 1673. Perhaps no subject in Morphology has been more carefully studied, but up to the present time we have learned comparatively nothing of the structural arrangement of the red blood corpuscles; nor can we explain any considerable number of the phenomena which they display.

#### FORM, COLOR, AND STRUCTURE.

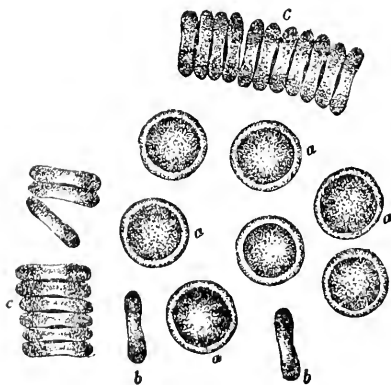
Two distinct forms have been discovered in the red corpuscles of blood.

1. The circular disc occurs in all the mammals except the camel and auchenia.

2. The elliptical or oval discs are seen in the blood of all birds, amphibia, most fishes and of mammals, the camel and the auchenia. The microscope enables the observer to distinguish the blood of birds, fishes, and reptiles, from mammalian blood (which includes that of the human being) by the organic structural difference in form.

The oval or elliptical corpuscles have also another distinguishing feature. They each have a central nucleus which

Fig 1.



RED BLOOD CORPUSCLES.

- a. Flat side presented.
- b. Single side view presented.
- c. In roleaux like coin.

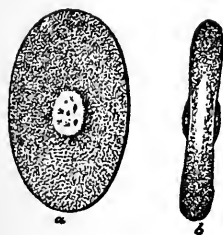
gives them an apparent prominence in the center.

The red blood corpuscles, while always red in appearance, are round, not like the orange, but round like the silver dollar, and they revolve in the *Liquor Sanguinis* with their flat sides together like roleaux of coin, *vide* Fig. 1.

This nucleus in the elliptical or oval corpuscle stands out, is prominent, and may be compared to the disc

formed by placing two saucers together with the convex surface presented outwards, *vide* Fig. 2.

Fig. 2.



a. Side view of oval disc.  
b. End view, showing nucleus.

In the circular discs they have no nucleus and appear depressed in the center.

This nucleus does not exist in the corpuscles of the mammalia, even in the two exceptions named, and this is a difference so easily shown by the microscope that the observer can at once state positively from the form and structure alone, whether the red corpuscles are oval and nucleated, and so not from the blood of man or mammalia—with the exceptions named—and if so found, can assert positively that they belong to birds, fishes, reptiles, some of the camel tribe, or the amphibia.

#### WHITE CORPUSCLES AND BLOOD PLATES.

There are three kinds of blood corpuscles: The red, which I shall chiefly consider in this paper, the white corpuscle, and the so-called blood plates; the latter having been only recently discovered by Hayem in 1878.

(Recherches Sur l' Anatomie Norm et path du sang by Hayem, Paris, 1879. Comptes Rendus de l' academie de sci 1882, 18 Julie, and by Bizozero in 1882.)

*Vide* his article on Blood in his *Klienische Microscopic*, 1887. Also Virchow's Archiv, 1882, Bd. 90, p. 261.

These blood plates are demonstrated to be the important factors in the clotting of blood. Studies of these blood plates have been made by William Osler, and by him published in the *Phil. Medical Times* of April 3 and October 17, 1886, and by Welch. *Vide* :—

“The Structure of the White Thrombi.” Transactions Pathological Society of Philadelphia, Vol xiii, (1887).

They number about one-twentieth part of the blood corpuscles.

But little as yet is known concerning them, their characteristics or structure, or how they differ in different animals. So far as now known they throw no light upon the subject of our present inquiry and science has yet little or no aid from them on the question of discrimination, from those of other mammals, though research may, in the near future, add to our knowledge as to their difference in number and appearance in various animals, and as to other characteristics.

The white corpuscles are few in number, averaging only about one to five hundred of the red corpuscles.

They are spherical in shape, of a pale, milky appearance, have a peculiar amoeboid motion, and assume varied shapes. They also have nuclei. They are of a comparatively uniform size in all vertebrates, being from 1-2700 to 1-3000 of an inch in diameter, so that a contrast of their diameters throws no light upon the present inquiry.

Prof. Formad claimed that the white blood corpuscles are the progenitors of the red ones.

So far as present scientific knowledge goes, they furnish no source of information in discriminating between the blood of man and other animals.

The specific gravity of the red corpuscles is stated by high authorities to be about 1088; that of serum 1028.

Dana has calculated that the ratio of the weight of the total bulk of blood to the total weight of the body is in man 1-13, and the same in the dog, but less in other domestic animals:—the cat, 1-14; horse, 1-15; rabbit, 1-18; guinea pig, 1-19; calf, 1-21; sheep, 1-24; pig, 1-26; ox, 1-29.

Formad claims, from his own researches, made upon red blood corpuscles, that they have in fact no nuclei; that they are not actually red, but yellow; that the apparent nucleation is due to their biconcavity, on account of which the center

of the corpuscle appears dark in one focus with a light periphery, while in another focus the reverse occurs.

He also claims to have demonstrated by the test of the venom of serpents that they have no cell wall or membrane, and that, in fact, what seems a cell wall or membrane is only the outer hardened layer of the protoplasm of the corpuscle.

#### METHODS OF INVESTIGATION.

Three methods of investigating blood have been employed by scientific observers, to which I shall briefly advert, as each furnishes its peculiar evidence upon the subject of the present inquiry, which is to determine how far science lends her aid to detect the existence of blood in medico-legal cases, and when found, to determine how far it is possible to discriminate between the blood of man and that of other animals:—

1. Chemistry.
2. The spectroscope.
3. The microscope and its allies, the micrometer, and the micro-photograph.

#### CHEMISTRY.

The highest chemical authorities unite in the statement that there are no ascertained chemical differences between the blood of man and that of other animals.

#### THE GUAIAECUM TEST.

This test, discovered by Dr. Day, of Australia, is confirmed by Taylor, Tidy, Reese, Formad, Wormley, and others, and is a beautiful test for blood or blood stains, to show the presence of blood, and to distinguish them from other stains and substances.

This test is thus made: Take the tincture of guaiacum, dissolve it in rectified spirits of wine and add peroxide of hydrogen dissolved in ether.

If in this is dropped a solution containing blood it will turn the tincture blue in a few seconds. While there are several organic substances that will turn guaiacum blue, still this is a practical and valuable test. The force of the experiment lies in the fact that while blood alone will not blue guaiacum, in the presence of organized ether (peroxide of hydrogen dissolved in ether) the blue color at once appears.

Prof. C. Meymott Tidy describes this test as follows:

“Wet the blood stain with *freshly prepared* tincture of guaiacum, and then add a small quantity of an ethereal solution of hydroxyl. (To prepare the tincture of guaiacum, wash the tears of guaiacum resin first with a little alcohol and then dissolve the pure unoxidized resin by shaking up with a little fresh spirit. The ethereal solution of hydroxyl is prepared by mixing together equal parts of ether and hydroxyl. The ether is however not necessary for the reaction). If the stain be blood, a characteristic blue tint will be produced.

“If the material stained be of such a color as to obscure the reaction, add the several reagents, and afterwards press the fabric between two pads of white blotting paper, when the blue color will be absorbed by the paper. A number of impressions may in this manner be obtained, and the reaction be rendered apparent.

“If the blood be fresh the reaction may be obtained by simply treating a solution of the coloring matter in cold distilled water with the guaiacum and hydroxyl.

“To detect blood in urine the following process has been suggested: Mix together, in a test tube, equal parts of turpentine and tincture of guaiacum. Then add the urine so that it may flow to the bottom of the tube. The guaiacum resin which now separates, if blood is present, becomes an intensely blue color.

“In this test the blue color results from the oxidation of the guaiacum resin. But it is important to note that guaiacum is blued by a great number of substances, such as by gluten, milk, and the fresh juice of various roots and under-ground stems, (horseradish, colchicum, carrot, etc.); also by nitric acid, chlorine, the chlorides of iron, mercury, copper and gold, the alkaline hypochlorites, and a mixture of hydrocyanic acid and sulphate of copper; also by pus, saliva and mucus mixed with carbolic acid creosote, etc., etc.

“Although the guaiacum test is neat and beautiful, it should never be relied upon *by itself alone* as positive proof of a stain being blood.”—(Tidy's Legal Medicine, 221.)

Prof. Reese says regarding this test:

“It is a remarkable fact, as discovered by Schonbein, that *autozone*, as found in the peroxide of hydrogen (in which the oxygen is in the positive

state), has no effect at all in changing the guaiac resin to a blue color, moreover while the resin is blued by a variety of mineral and organic substances, the coloring matter of the blood has no effect upon it.

"The *guaiacum* test then depends upon the fact that while the blood has no power to oxidize or blue the resin, the presence of peroxide of hydrogen (autozone), which itself has no power to oxidize the guaiacum, causes the resin then to be oxidized by the blood and the blue color appears."—Reese Med. Juris. and Tox., (1891,) p. 131.

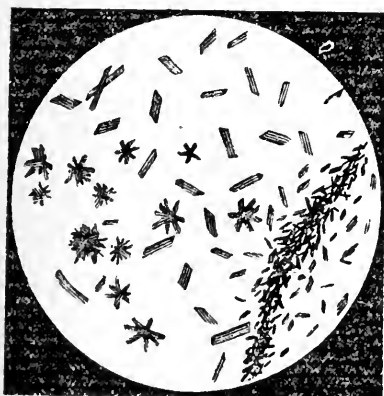
The same authority says:

"Objections have been raised against this test on the ground that other substances besides blood will produce a blue color in the presence of guaiac and peroxide of hydrogen, such as saliva, bile, and red wine; but as regards the two former, their color should at once distinguish them from blood, while the latter substance requires *some hours'* exposure to produce the same results; whereas in the case of blood the effect is immediate." And he further says: "That the chemical tests will not distinguish arterial from venous blood, nor human from other blood."

He also asserts that the claim made by M. Barruel, "that if blood be shaken up with an excess of pure sulphuric acid a peculiar odorous principle will be evolved, resembling the particular animal from which the blood was obtained," has been disproved by recent investigations and is no longer regarded as reliable.—Reese. Med. Juris. and Tox., pp. 132 and 133.

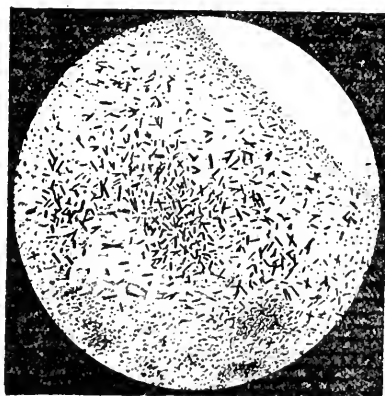
#### HAEMATIN CRYSTALS.

Fig B



Haematin Hydrochloride.  
× 400 diameters.

Fig C.



Haematin Hydrochloride from 1-500 grain  
of blood. × 750 diameters.

Take a blood clot, or fragment of one, and evaporate it to dryness, with an excess of haematin (hydrochlorate of haematin) and a trace of chloride of sodium. Then add more

acetic acid and repeat the evaporation, but more slowly. Then examine the residuum under a microscope of at least 300 to 500 diameter power. Crystals will be formed of well-known and well-defined character and shape.

Figures B and C are examples of these crystals, which I am permitted, by Prof. Theodore G. Wormley, of Philadelphia, to use, from his work, *Micro Chemistry of Poisons*.

Prof Formad, of Philadelphia, says of haematin crystals:

"That they may be produced by the addition of glacial acetic acid and sodium chloride to dried blood.

"A few granules of dried blood are pulverized on a glass slide, together with a few granules of salt; having covered it with a glass circle, a drop of the acid is allowed to flow under; the slide is then submitted to heat, when the peculiar crystals appear."—(*Comparative Studies of Mammalian Blood*, by Formad, p. 8.)

This test has been called "Teichman's Crystals," after its discoverer. Formad says it can be relied upon as indicating *the presence* of blood, but cannot be relied upon as indicating *the kind* of blood.

Prof. Tidy describes these crystals and this test as "Teichman's Test as modified by Neuman." He says:

"Thoroughly rub together the dried blood and common salt. Treat the mixture with glacial acetic acid and cautiously evaporate the solution until solidification commences.

"Cool the slide rapidly and examine with  $\frac{1}{4}$  inch objective, when crystals of haematin (brownish black or reddish brown rhomboids, or tabular crystals), together with crystals of sodic chloride (transparent tubes) will be apparent.

"The experiment may also be made without employing sodic chloride. (Casper.)

"In the case of a stain it should be placed on a glass slide and moistened with a solution of sodic chloride.

"It should then be covered over with a large thin glass, and glacial acetic acid allowed to run under the edge. The liquid is then to be heated to dryness at a boiling temperature, and the slide allowed to cool. When cold, rhomboidal crystals of hydrochlorate or haematin, together with crystals of sodic chloride, dispersed through irregularly shaped albuminous masses, will be seen.

"It is stated that the character of the network in which the crystals are dispersed varies with different animals, forming characteristic pictures.



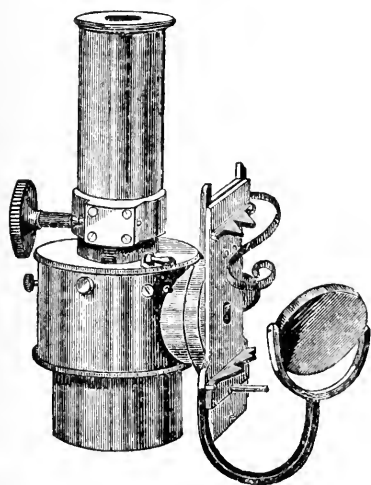
(American Journal Medical Science, LX, p. 42.")—1. Tidy Legal Medicine, p. 222.

These several tests, while reliable in determining whether the matter examined contains blood or not, are of no value, and throw no light whatever upon the question as to whether it was the blood of man or of animals that was examined.

#### THE SPECTROSCOPE AND SPECTRAL ANALYSIS.

This instrument furnishes valuable evidence in murder

FIG D



Sorby's spectroscope eye-piece

trials, to determine the presence or existence of blood in any case of doubt.

The liquid, to be examined diluted, is placed in a glass tube for examination, under a good light. It should be clear and great care taken with the spectral apparatus. Two tubes should be examined together for contrast, one containing blood and the other the liquid in question.

Any animal blood can be used for this test. Attach the spectral eye piece to the microscope and analyze the light as it traverses the clear solution. If the red liquid owes its color to recent or oxidized blood two dark absorption bands will be seen breaking the continuity of the colored spectrum. These bands are near the junction of the yellow with the green rays, and in the middle of the green. If the blood is quite recent and of a bright red color the two absorption bands will be distinct and well defined. (Taylor's Manual of Medical Jurisprudence, 12th London Edition, 272.)

I am indebted to Lea Brothers & Co., of Philadelphia, for

the privilege of reproducing Dr. C. Meymott Tidy's beautiful plate representing this test. *Vide* Tidy Legal Medicine for same.

No matter how small the quantity of blood, if any red coloring matter remains, in good, careful hands, in the minutest test, the presence can be certainly indicated.

Sorby says that a spot of blood of only one-tenth of an inch in diameter, or a quantity of red coloring matter equal to only the 1000th part of a grain was sufficient to give conclusive evidence of the presence of blood by spectral analysis. And the late Dr. Richardson, of Philadelphia, stated that he was able, by a still more delicate process, to detect the 3000th part of a grain of blood, on an axe handle supposed to have been used in a case of murder.

#### THE MICROSCOPE AND ITS POWERS.

We have shown how readily mammalian blood can be distinguished from the oval and nucleated corpuscles by this marvelous instrument.

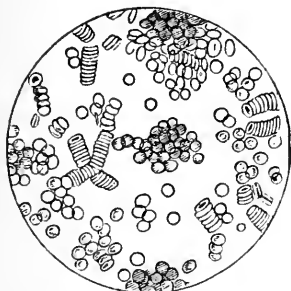
We shall conclude what we have to say upon the question as to whether, by the aid of the microscope of high powers, there is any means now known to science of distinguishing between the blood of man and the domestic animals.

It was claimed by Taylor, one of the highest authorities, that, in his day, no certain method existed of distinguishing human from other mammalian blood, when it had been once dried on an article of clothing, or upon a weapon, and his editors have, since his death, made the same claim. (Taylor, 12th London Edition, p. 279.)

The learned editor of Taylor's Medical Jurisprudence, to whom I refer, Dr. Thomas Stevenson, of London, quotes in the same volume approvingly the valuable labors of Dr. Richardson, of Philadelphia, as reported in American Journal of the Medical Sciences, July, 1874, that by the use of the microscope of higher powers, up to 750 diameters, and by other

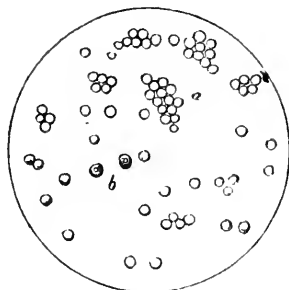
appliances, he had been able to distinguish, under favorable conditions, the blood of man from such animals as the ox and pig and to give evidence thereon in certain trials for murder. Taylor and other observers before Richardson had only used 300 to 800 diameter powers. *Vide* figures 3 and 4.

Fig. 3.



Red Blood Corpuscles,  
315 diameters.

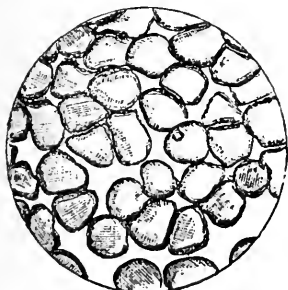
Fig. 4.



a. Red Blood Corpuscles, 315 diameters.  
b. White Corpuscles.

The method is to contrast the diameters of the red blood corpuscles of man with each of the mammalian animals.

Fig. 5.



Human Corpuscles, 650 diameters.  
1-3500, Dr. Seiler's measurements,  
Amer. Med. Times, Feb'y, 1876.

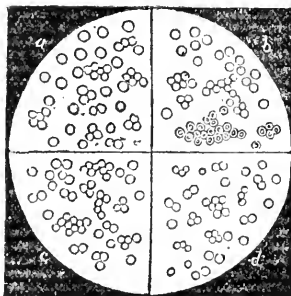
Fig. 6.



Pig's Corpuscles, 650 diameters.  
1-4250, Dr. Seiler's measurements.

The diameter of the red corpuscle of each mammal has been ascertained approximately by averages. The difficulty lies in the exactness of the standard. For example, the average diameter of the human red blood corpuscle is 1-3200ths of an inch. *Vide* fig. 5. Reese says the maximum is 1-2000,

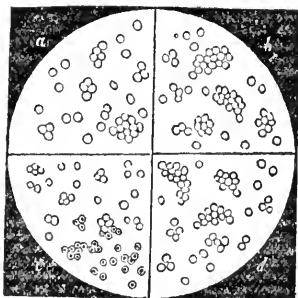
Fig. 7.



Red Blood Corpuscles magnified 319 diameters.

a. The Dog.                      b. The Mouse.  
c. The Rabbit.                  d. The Ass.

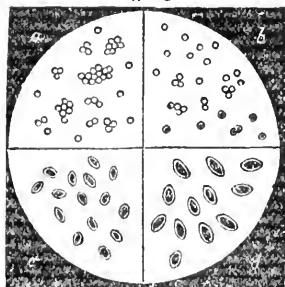
Fig. 8.



Red Blood Corpuscles magnified 319 diameters.

a. The Cow.                      b. The Dog.  
c. The Ox.                        d. The Cat.

Fig. 9.



Red Blood Corpuscles magnified 319 diameters.

a. The Horse.                      b. The Sheep.  
c. Common Fowl.                  d. Salamander.

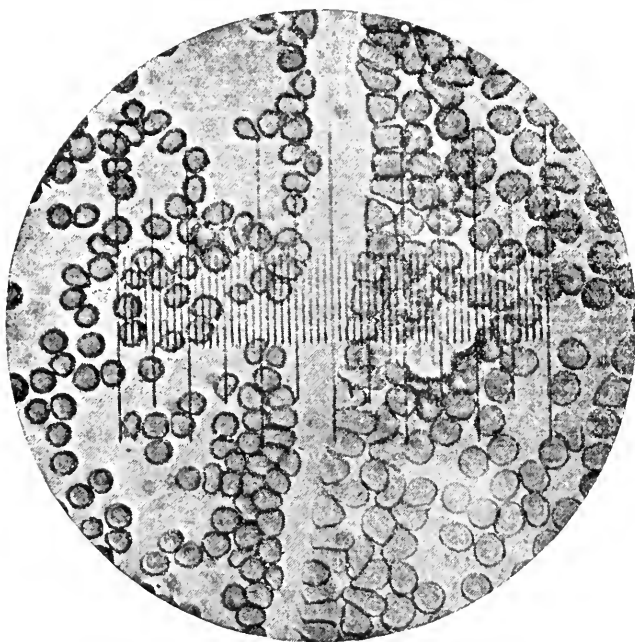
minimum 1-4000. Dr. Stevenson places the maximum at 1-3000 and the minimum 1-5000ths of an inch. Gulliver, a high authority, places the average human red corpuscle 1-3200. The Medico-Legal Society of France, in 1873, 1-3257; Wormley, 1-3250; Masson, 1-3257; Formad, in 1888, 1-3200.

All unite in the statement that the human corpuscle is larger than those of the domestic animals. These are measurements upon fresh blood, which has not been allowed to dry on animal or vegetable stuffs.

The average diameter of the red corpuscles of the blood of the sheep is 1-5000, the goat 1-6366, and these are so much smaller than those of man that a microscope of low power would certainly discriminate them by the size of the red corpuscle from those of man, as also those of the horse, 1-4600; the cow, 1-4500; the cat, 1-4004; the pig, 1-4230; and the mouse, 1-3814. *Vide* figs. 7, 8, 9.

The greater difficulty arises with those animals whose red corpuscles approximate nearer in size to those of man, such as the dog. Taylor says the average diameter of the red blood corpuscles of the

dog are 1-3540; Reese, 1-3500; Formad, 1-3580; Wormley, 1-3561; Gulliver, 1-3532.



OX

AND

HUMAN

Blood Corpuscles Side by Side, Magnified 500 Diameters Micrometry  
Illustrated Photo-Micrograph by Dr. Seiler

Dr. William J. Lewis, of Hartford, in a scholarly inaugural address as President of the American Society of Microscopists, delivered in August, 1889, says of the dog :

“Unfortunately in the dog the red corpuscles so closely resemble those of man that it is difficult to distinguish between them.

“Out of two hundred corpuscles from the blood of man, and an equal number from a dog, Dr. J. P. Bradwell found that those measuring  $1\text{-}\frac{1}{3200}$  of an inch, forty-six were from the man and six from the dog. Of those measuring  $1\text{-}\frac{1}{3300}$ ths of an inch, thirty-seven were from the man and seventeen from the dog. Of those measuring  $1\text{-}\frac{1}{3400}$  of an inch, fourteen were from the man and twenty-three from the dog. It will thus be seen that although the average human blood corpuscles is slightly larger than that of the dog, the variations in size overlap in measurement so as to make it unsafe to express a positive opinion when the question is confined to distinguishing between human or dog's blood. The blood of the guinea pig is still more difficult to determine in comparison with that of man.

"From careful measurement of the red corpuscles in a given specimen, if found to average the same as those of man, a positive opinion may be expressed that the blood did not come from the sheep, ox, horse, pig, or goat, the corpuscles in those animals being so much smaller as to render the distinction easy."

Prof. Reese, now perhaps one of our highest American authorities, claims that Dr. Richardson has demonstrated the possibility of distinguishing between human blood and that of the horse, cow, sheep, pig, and goat, with certainty and precision. That by employing very high microscopic powers, such as 1-30th of an inch objective, magnifying with a micrometer eye-piece over 3000 diameters, the human red blood corpuscle appears about 9-8ths of an inch in diameter, whilst those of the ox and sheep are about 5-8ths of an inch in diameter, indicating a very obvious difference in their respective sizes, and that the use of the ordinary powers (500 or 600 diameters) fail entirely to recognize the difference.—(Reese Medical Jurisprudence and Toxicology, p. 132, 2d Edition Text Book, 1889.)

Since the researches of Dr. Richardson great advances have been made by able observers, and it is now generally believed, that with a skilled and careful microscopist, and a good instrument of high powers, it will generally be possible to diagnosticate a human blood stain from that of any of the lower animals, with the possible exception of the guinea pig and the opossum. This, however, has not yet been conceded by some very high authorities, both American and European.

In 1880 Prof. Reese, as editor of the 8th American Edition of Taylor's Medical Jurisprudence, Philadelphia Edition, said:

"Prof. Richardson's microscopic investigation of blood stains are now always conducted with powers much higher than those mentioned by the author. (Taylor, speaking of powers of from 300 to 500 diameters.) I have examined with him blood stains from man, the pig, the ox, and the sheep, with powers varying from 1200 to 1800 diameters, and can testify to the obvious differences which unequivocally distinguish human blood

from that of the above mentioned animals, by the use of these high microscopic powers. Prof. Richardson's observations have afforded material aid to the cause of justice in several noted homicide trials, where the identification of suspected blood spots was a necessary factor in the evidence. By the employment of these high powers there is no difficulty in positively distinguishing between the human blood corpuscles and that of any animal whose corpuscle is less than 1-4000th of an inch."

In inviting Prof. Reese to be present and partake in the discussion of this paper before the Medico-Legal Society, I requested him, if unable to attend, to give his views upon the general question of discrimination between the blood of man and the domestic animals, and as to the opinions expressed by him in 1880, above referred to.

His reply cannot fail to be of interest to the members of this Society and all students of the subject :

"ATLANTIC CITY, N. J., April 30, 1892.

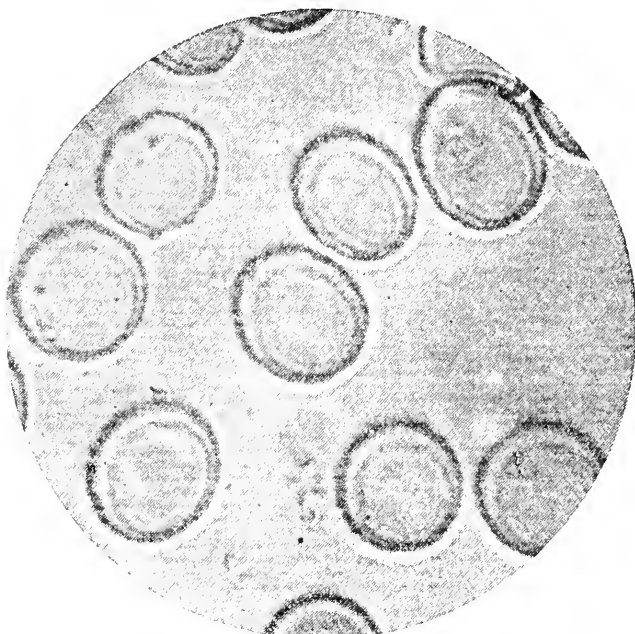
MY DEAR MR. BELL:—

I have duly received your two communications. I do not think I can answer you more satisfactorily than referring you to the last edition (third) of my work on Medical Jurisprudence (1891). If you will kindly excuse the (apparent) egotism of my so doing, for my article there on "Blood and Blood Stains," I think you will find the subject fully discussed and written up to the present census of scientists and medical experts.

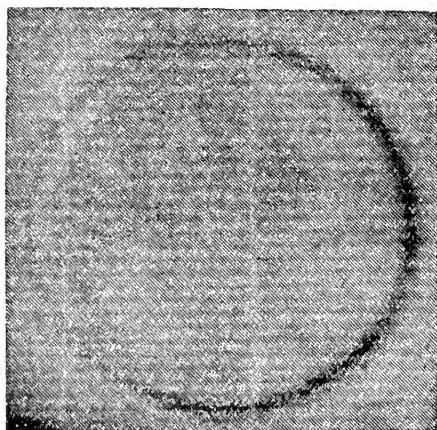
Certainly (as stated in Taylor's) there is no difficulty in detecting corpuscles much smaller than 1-4000 of an inch as, e. g., those of the horse, sheep, and goat. The present pretty general idea seems to be that whilst it is admitted that a skillful microscopist can certainly distinguish between a human corpuscle and one of a horse, cow, pig, sheep, and goat (domestic animals with which it would be likely to be confounded), still in a murder trial, where human life is at stake, the expert is hardly warranted to swear that the blood stain is anything more than that of a mammal.

Sincerely yours,

JOHN J. REESE."



FRESH HUMAN BLOOD. Red Blood Corpuscles, Magnified 2250 Diameters. Photo-Micrograph. 1-18 Zeiss Hom Oil Immersion and Projection Eye-Piece.



SHEEP (15000.) 2 inches.

The studies of Prof. Formad, of Philadelphia, are perhaps of as great interest as those of any recent observer, especially with high powers. His method with dried blood is first to expose it to a gentle, moist heat from one to ten days, according to the age of the stain.



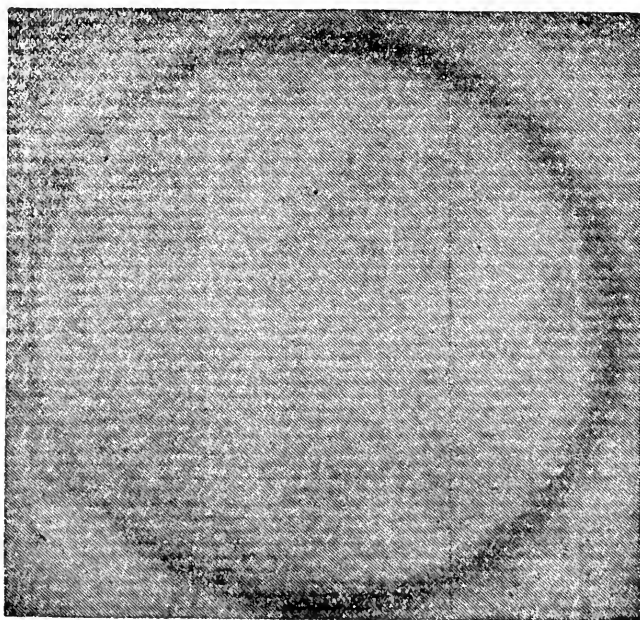
"A small granule of the suspected blood on a fibre from the blood stained fabric is placed on a glass slide in a drop of 30 to 35 per cent. solution of caustic potash and covered with a glass slide. If the blood stain was recent the disintegration of the clot commences at once, and the isolated corpuscles separate and swim swiftly through the liquid if the stage of the microscope is slightly inclined."



GOAT. (1-6100.) 1 3.5 inches.

Prof. Formad has recently claimed that by a still higher amplification, obtained by re-photographing single corpuscles of different animals

(prepared in the same manner as Prof. Richardson's, and under similar projections) he has secured most singular and striking results.



MAN. (1-3200.) 3 1-8 inches.

Thus by enlargement to 10,000 diameters, Formad claims

to have obtained the following photographic measurements:  
The human corpuscles, enlarged to  $3\frac{1}{8}$  inches in diameter;



FIG. 10. OX. (1-4200)  $2\frac{1}{3}$  inches

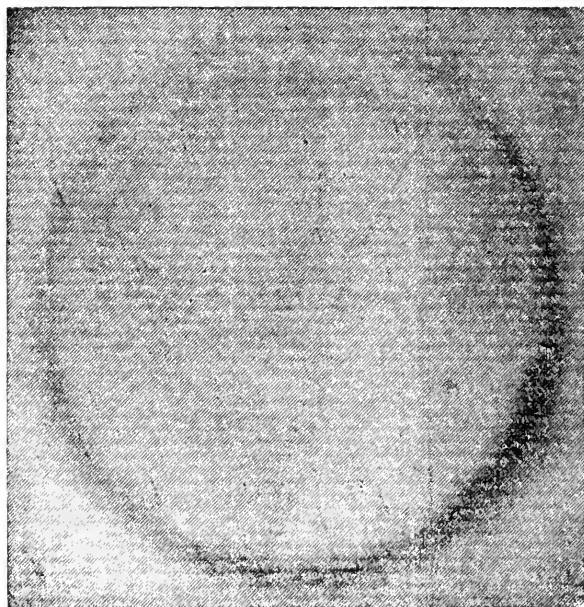


FIG. 11. DOG (1-3500)  $2\frac{4}{5}$  inches

guinea pig, 3 inches; dog, 2 4-5 inches; ox,  $2\frac{1}{3}$  inches; sheep, 2 inches; goat,  $1\frac{3}{8}$  inches. Under such tests, and the light thrown upon the subject by these able observers, with these very high powers, the careful observer would, as he claims, be able to state that the corpuscles were *not* those of the sheep, the goat, the horse, the cow or ox, and probably the dog, as well as most of the mammals, except the guinea pig and opossum.

The tables of Prof. Wormley as to the average diameter of the red corpuscles of the mammalia may be quoted as of high value. He has made illustrations of the apparent size of red corpuscles, under an amplification of 1150 diameters, expressing the average diameters in vulgar fractions, thus—3250 equals  $1\text{-}\frac{3250}{1150}$  of an inch. This table of illustration shows the corpuscle of man, the dog, mouse, ox, sheep, and goat.

## BLOOD.

REPTILES.	Wormley.		Gulliver.	
	Length.	Breadth.	Length.	Breadth.
Tortoise (land) . . . . .	1-1250	1-2200	1-1252	1-2216
Turtle (green) . . . . .	. . . . .	. . . . .	1-1231	1-1882
Boa-constrictor . . . . .	1-1245	1-2538	1-1440	1-2400
Viper . . . . .	. . . . .	. . . . .	1-1274	1-1800
Lizard . . . . .	. . . . .	. . . . .	1-1555	1-2743

BATRACHIANS.	Wormley.		Gulliver.	
	Length.	Breadth.	Length.	Breadth.
Frog . . . . .	1-1089	1-1801	1-1108	1-1821
Toad . . . . .	. . . . .	. . . . .	1-1043	1-2000
Triton . . . . .	. . . . .	. . . . .	1-848	1-1280
Proteus . . . . .	. . . . .	. . . . .	1-400	1-727
Amphiuma tridactylum . . . . .	1-358	1-622	1-363	1-615

FISHES.	Gulliver.	
	Length.	Breadth.
Trout . . . . .	1-1524	1-2460
Pereh . . . . .	1-2099	1-2824
Pike . . . . .	1-2000	1-3555
Eel . . . . .	1-1745	1-2842
Lamprey . . . . .	Circular.	1-2134
Nucleus . . . . .	. . . . .	1-6400

*Average Size of the Red Blood-Corpuscles.*

MAMMALS.	Wormley.	Gulliver.	MAMMALS.	Wormley.	Gulliver.
Man . . . . .	1-3250	1-3200	Rhinoceros . . . . .	1-3649	1-3765
Monkey . . . . .	1-3382	1-3412	Tapir . . . . .	1-4175	1-4000
Opossum . . . . .	1-3145	1-3557	Lion . . . . .	1-4143	1-4322
Guinea-pig . . . . .	1-3223	1-3538	Ocelot . . . . .	1-3885	1-4220
Kangaroo . . . . .	1-3410	1-3440	Mule . . . . .	1-3760	
Musk-rat . . . . .	1-3282	1-3550	Ass . . . . .	1-3620	1-4000
Dog . . . . .	1-3561	1-3532	Ground-squirrel . . . . .	1-4200	
Rabbit . . . . .	1-3653	1-3607	Bat . . . . .	1-3966	1-4175
Rat . . . . .	1-3652	1-3754	Sheep . . . . .	1-4912	1-5360
Mouse . . . . .	1-3743	1-3814	Ibex . . . . .	1-6445	
Pig . . . . .	1-4268	1-4230	Goat . . . . .	1-6189	1-6366
Ox . . . . .	1-4219	1-4267	Sloth . . . . .	. . . . .	1-2365
Horse . . . . .	1-4243	1-4600	Platypus (duck-billed) . . . . .	. . . . .	1-3000
Cat . . . . .	1-4372	1-4404	Whale . . . . .	. . . . .	1-3099
Elk . . . . .	1-4384	1-3938	Capybara . . . . .	1-3164	1-3150
Buffalo . . . . .	1-4351	1-4586	Seal . . . . .	. . . . .	1-3281
Wolf (prairie) . . . . .	1-3422	1-3600	Woodchuck . . . . .	. . . . .	1-3484
Bear (black) . . . . .	1-3656	1-3693	Musk-deer . . . . .	. . . . .	1-12325
Hyena . . . . .	1-3644	1-3735	Beaver . . . . .	. . . . .	1-3325
Squirrel (red) . . . . .	1-4140	1-4000	Porcupine . . . . .	. . . . .	1-3369
Raccoon . . . . .	1-4084	1-3950	Llama { long diam. . . . .	1-3201	1-3361
Elephant . . . . .	1-2738	1-2745	{ short " . . . . .	1-6408	1-6229
Leopard . . . . .	1-4390	1-4319	Camel { long diam. . . . .	1-3331	1-3123
Hippopotamus . . . . .	1-3560	1-3429	{ short " . . . . .	1-5280	1-5876

BIRDS.	Wormley.		Gulliver.	
	Length.	Breadth.	Length.	Breadth.
Chicken . . . . .	1-2080	1-3483	1-2102	1-3466
Turkey . . . . .	1-1894	1-3444	1-2045	1-3598
Duck . . . . .	1-1955	1-3504	1-1937	1-3424
Pigeon . . . . .	1-1892	1-3804	1-1972	1-3643
Goose . . . . .	. . . . .	. . . . .	1-1836	1-3839
Quail . . . . .	. . . . .	. . . . .	1-2347	1-3470
Dove . . . . .	. . . . .	. . . . .	1-2005	1-3369
Sparrow . . . . .	. . . . .	. . . . .	1-2140	1-3500
Owl . . . . .	. . . . .	. . . . .	1-1763	1-4076

The general conclusion reached by Prof. Wormly is "*That the microscope may enable us to determine with great certainty that a blood is NOT that of a certain animal and is CONSISTENT with the blood of man; but in no instance does it in itself enable us to say that the blood is really human, or indicate from what particular species of animal it was derived.*"

Prof. Formad has compiled a comparative table of the mean diameters of the red corpuscles of various animals, and placed in contrast his own measurements with those of Gulliver, Prof. Wormley, C. Schmidt (1848), Malinin (1875), the Medico-Legal Society of France (1873), Masson (1885), Hans Schmid (1878), Woodward (1875), and he has extended, in this table, the measurements in fractions of an English inch, as also in m.m., or the French millimeter.

The English inch and its vulgar fraction is in most general use in America, and the French millimeter upon the continent. For example, under the French system the diameter of the human corpuscle is 0.0079 m.m., equal to 1-3200 inch of the English system.

Sometimes the French employ the vulgar fraction of a m.m., and sometimes the Americans a decimal of an inch, thus: Sometimes expressed in the French system in speaking of the human corpuscle as 1-120 of an m.m., and in our system as 0.0079 m.m., which are equal to 1-3200 of an inch.



## GULLIVER'S TABLES.

The micrometry of Gulliver's tables have been very generally accepted as standard, although taken a good many years ago and with imperfect instruments.

His studies extended over thirty years, and embraced 800 animals.

The object of his work was a biological study, to prove that the blood corpuscle was the most reliable means of the classification of species in animals.

His measurements were made almost half a century ago, and he did not claim for them exactness of micrometry, but he only claimed for them "*that the relative value of the measurements, though probably not unexceptionable, may be entitled to more confidence as a fair approximation to the truth.*"

It is a singular fact that all modern observers recognize Gulliver as an authority, and that the researches of our best workers have strengthened the general conviction of the reliability of his measurements. He is cited by the standard authors as an authority.

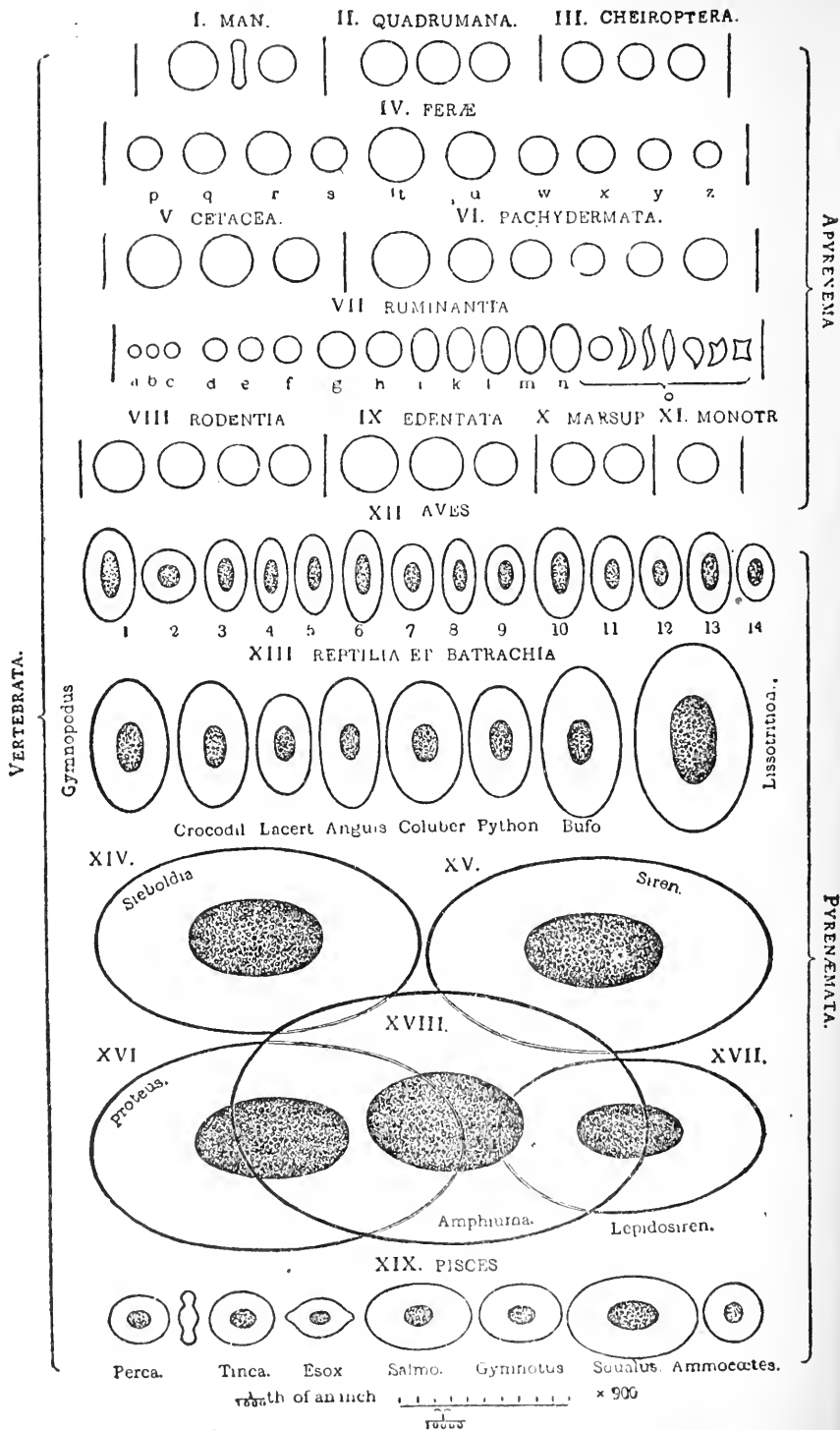
It would be quite impossible for me to re-produce Gulliver's tables complete, for want of space.

I shall re-produce his plate, and with it selections from his explanations, as prepared by Prof. Formad, giving English names to the Latin used by Gulliver, and the diameters in the fractions of an English inch. Some oversights of the engraver, as regards omission of figures on the plate, are explained in the text.

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NOTE; EXPLANATIONS OF THE FIGURES UPON GULLIVER'S PLATES.—The red blood-corpuscles are all done to one and the same scale, representing 1-1000 of an English inch, and each one of the ten divisions 1-10000 of an inch. *Vide* foot of page. Only corpuscles of the average size and regular shapes are given, and they are all magnified to the same size, 900 diameters. The descriptive tables explain the plate.

Gulliver's micrometry of red blood corpuscles, all to a uniform scale.





## A — VERTEBRATA APYRENÆMATA. (SEE PLATE IV)

I	HOMO (MAN).....	1-3200
	*1. Corpuscles lying flat	
	2. The same on edge	
	3. Membranous base of same after removal by water of coloring matter; it shows diminution in diameter on account of acquired spherical shape.	
II.	QUADRUNANA (MONKEYS.)	
	4. Simia troglodytes (Chimpanzee).....	1-3412
	5 Ateles ater. (Black-faced spider monkey).....	1-3602
	6 Lemur anguanensis.....	1-4003
III	CHEIROPETERA (BATS)	
	7 Cynonycteris collaris (fruit bat).....	1-3880
	8. Vespertilio noctula (large bat).....	1-4404
	9 Vespertilio pipistrellus (common bat).....	1-4324
IV	FERÆ (BEASTS OF PREY.)	
	(*) 10. Sorex tetragonurus (shrew).....	1-4571
	(*) 11 Ursus labiatus (lipped bear).....	1-3728
	(*) 12 Bassaris astuta civet cat).....	1-4033
	(*) 13* Cercoleptes caudivolvulus (kinkajou).....	1-4573
	(*) 14 Trichechus rosmarus (walrus).....	1-2769
	(*) 15 Canis dingo (dog, Australian).....	1-3395
	(*) 16 Mustella zorilla (weasel).....	1-4270
	(*) 16 Felis leo (lion).....	1-4322
	(*) 16 Felis leopardus (leopard).....	1-4319
	(*) 17 Felis tigris (tiger).....	1-4206
	(*) 18 Paradoxurus pallasii (Pallas paradoxure).....	1-5485
	(*) 19 Paradoxurus bondar (Bondar paradoxure)....	1-5693
	(*) 19 Hyena striata (striped hyena).....	1-3735
V.	CETACEA (WHALES.)	
	20. Balæna (boops—whale).....	1-3099
	21. Delphinus globiceps (caing—whale).....	1-3200
	22. Delphinus phocæna (porpoise).....	1-3829
VI.	PACHYDERMATA.	
	23. Elephas indicus (elephant).....	1-2745
	24. Rhinoceros indicus (rhinoceros).....	1-3765
	25. Tapirus indicus (tapir).....	1-4000
	26. Equus caballus (horse).....	1-4600
	27. Dicotyles torquatus (peccary).....	1-4490
	28. Hyrax capensis (Cape hyrax).....	1-3308
VII.	RUMINANTIA (RUMINANTS.)	
	(*) 29. Tragulus javanicus, (Javan chevrotain, musk deer).....	1-12325

\*Through an oversight, some of the figures are not marked upon the plate.

) 30	<i>Tragulus neminna</i> (Indian chevrotain).....	1-12325
(-) 31.	<i>Tragulus Stanleyanus</i> (Stanleyan chevrotain) .....	1-10825
( ) 32	<i>Cervus nemorivagus</i> (deer) .....	1-7060
(e) 33.	<i>Capra Caucasica</i> (Caucasian ibex).....	1-7045
(i) 34.	<i>Capra hircus</i> (domestic goat).....	1-6366
(g) 35	<i>Bos urus</i> (represented by Chillingham cattle)..	1-4267
(b) 36	<i>Camelopardalis giraffa</i> (giraffe).....	1-4571
(i) 37	<i>Auchenia vicugna</i> (vicuna).....	L. D. 1-3555 Sh. D. 1-6587
(b) 38.	<i>Auchenia paca</i> (alpaca).....	L. D. 1-3361 Sh. D. 1-6229
(i) 39	<i>Auchenia glama</i> (llama).....	L. D. 1-3361 Sh. D. 1-6229
(m) 40	<i>Camelus dromedarius</i> (single hump camel).....	L. D. 1-3254 Sh. D. 1-6931
(n) 41	<i>Camelus bactrianus</i> (double hump camel).....	L. D. 1-3123 Sh. D. 1-5876
(o) 42.	<i>Cervus Mexicanus*</i> (deer—Mexican).....	1-5175

## VIII. RODENTIA (RODENTS).

43.	<i>Hydrochoerus capybara</i> (capybara).....	1-3190
44.	<i>Castor fiber</i> (beaver).....	1-3325
45.	<i>Sciurus cinereus</i> (squirrel).....	1-4000
46	<i>Mus messorius</i> (harvest mouse).....	1-4268

## IX EDENTATA

47.	<i>Myrmecophaba jubata</i> (ant eater).....	1-2769
48	<i>Bradypus didactylus</i> (sloth).....	1-2865
49.	<i>Dasypus villa</i> (armadillo) .....	1-3315

## X MARSUPIALIA

50	<i>Phascolomys</i> (wombat) .....	1-3456
51.	<i>Hypsiprymnus setosus</i> (kangaroo rat).....	1-4000

## XI MONOTREMATA

52	<i>Echidna hystrix</i> (echidna) .....	1-3840
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## B.—VERTEBRATA PYRENÆMATA

## XII AVES (BIRDS)

	L	D	SH	D
1. <i>Struthio camelus</i> (ostrich).....	1-1649	—	1-3000	
2 The same made round and deprived of color by water				
3 <i>Vanga destructor</i> (East India shrike).....	1-2019	—	1-3892	
4 <i>Lanius excubitor</i> (great grey shrike).....	1-1989	—	1-5325	
5 <i>Bubo virginianus</i> (horned owl) .....	1-1837	—	1-4000	
6 <i>Syrnēa nyctea</i> (snowy owl).....	1-1555	—	1-4042	
7 <i>Columba rufina</i> (rufous pigeon).....	1-2314	—	1-3329	
8. <i>Columba migratoria</i> (wild pigeon).....	1-1909	—	1-4626	
9. <i>Dolichonyx oryzivorus</i> (rice bird).....	1-2400	—	1-4167	

\* The only animal in which the red blood corpuscles present a variety of shapes in the same individual.—Gulliver

10	Buceros rhinoceros (rhinoceros hornbill)...	1-1690—1-3230
11.	Psittacus augustus (August amazon).....	1-2085—1-3606
12.	Phasianus superbus (barrel-tailed pheasant)	1-2128—1-3587
13	Pelecanus onocrotalus (white pelican).....	1-1777—1-3369
14	Trochilus sp (humming bird) .....	1-2560—1-4000

Figures XII, XIV, XVI, XVII and XVIII represent red blood corpuscles of Reptilia and Batrachia; while under figure XIX. those of the fishes are given. In all these figures the names of the animals are inserted upon the plate, and they do not require any comment at this place. It is evident that the blood corpuscles of the Amphibia are so large that they can be perceived by the naked eye.

#### WELCKER'S TABLES.

The measurements by Welcker are of very exact measurements of certain animals, and I am enabled to give the following table of a few of his mean measurements.

For man, on an average, expressed in millimeters:

	Min.	Max.
Diameter of disc, 0.00774, - - - - -	0.00640	0.00860
Greatest thickness of the disc, - - - - -	-	0.00190

These measurements were made on fresh blood or blood dried in thin layers on glass.

His mean table is as follows: (*Zeitschrift für rationelle Medicin*, 3 R. Band, \* \* p. 259; Stricker's Manual of Histotomy, article "Blood," by Alex. Rollett, p. 267, *et seq.*)

#### I. CIRCULAR CORPUSCLES.

Dog.....	0 0073
Cat.....	0 0065
Rabbit.....	0 0069
Sheep.....	0 0050
Goat (old).....	0 0041
Goat (8th day).....	0 0054
Moschus Javanicus.....	0 0025
Petromyzon mari.....	0 0150
Ammocoet branch.....	0 0117

#### II. ELLIPTICAL CORPUSCLES.

*a*, Long diameter; *b*, short diameter.

	<i>a</i> .	<i>b</i>
Lama .....	0 0080	0 0040
Pigeon (old).....	0 0147	0 0065
Pigeon (fledged).....	0 0137	0 0078
Pigeon (fledged).....	0 0126	0 0078
Duck.....	0 0129	0 0080
Fowl.....	0 0121	0 0072
Rana temporaria.....	0 0223	0 0157
Rana temp. (dry).....	0 0214	0 0156
Triton Cristatus.....	0 0293	0 0195
Proteus (1 and 2).....	0 0582	0 0337
.....	0 0579	0 0356
Sturgeon.....	0 0134	0 0104
Cyprinus Alburn.....	0 0131	0 0080
Lepidosiren Annectens.....	0 0410	0 0290

The method employed by Welcker has been thus described:

He employed a very short cylinder of plaster of Paris, the proportion of the radius to the height of which was estimated to correspond with the dimensions of the blood corpuscles; and by scooping out the surface and rounding off the edge he obtained a curvature of the surface which, to the eye, (!) was similar to that of the blood corpuscles. He thus determined the mean volume of human blood red corpuscles to be .000.000.072,217 of a cubic millimeter. Welcker, moreover, carefully lined the interior of this model, which was 5,000 times larger than the corpuscles, with paper of uniform thickness, then weighed the paper used and compared this with the weight of a known superficial measure of the same paper. From the data thus obtained he estimated that the superficies presented by a blood corpuscle amounts to 0.0,001.280 square millimeters. It is sufficiently obvious that these numbers have only a coarsely approximate value."

The most extended tables of the measurement of corpuscles are to be found in Milne Edwards. (*Leçons sur la Physiologie et l'Anatomie Comparée*, Paris, 1857, T. 1 p. 41.

#### PROF. WORMLEY'S TABLES.

The following tables of the average or mean size of the normal red blood-corpuscles of different animals were made by Prof. Theo. G. Wormley, in general from blood after the corpuscles had been dried in very thin layers, but in some instances while the blood was still fluid, and is taken, by his permission, from his work, "*Micro-Chemistry of Poisons*," published by J. B. Lippencott & Co., Philadelphia, in 1885.

These averages he has expressed in vulgar fractions of an English inch, and are the mean of two or more series of measurements, and in some instances of the blood of different individuals of the same species.

Prof. Wormley has contrasted his measurements with those of Prof. Gulliver, as published in the proceedings of the Zoological Society of London, June 15, 1875, and also in Hewson's works, at page 237, *et seq.*

# COLLECTIVE RESULTS OF SOME OF THE SERIES OF MEASUREMENTS OF RED BLOOD CORPUSCLES IN BLOOD STAINS AND IN EXPERIMENTALLY DRIED BLOOD

Normally shaped (bi-concave, disc-like) corpuscles only being measured.

Source of Blood.	Upon what Substance.	Age of Stain.	Condition, or how Prepared.	Number of Individual Examinations.	Number of Preparations Made.	Reagents used for Remounting.	Time of effect of Reagents.	Percent. of Measurable Corpuscles in each preparation.	Total Number of Corpuscles measured.	Average Diameter in inch.	Normal Diameter of Fresh Blood.
Man. ....	Knife and Glass.	2 days.	Rapidly dried .....	10	30	*K. O. H.	5 to 30 min'ts.	20 to 50	1000	1-3280	1-3200
Man. ....	Cloth . . . . .	7 days.	Slowly dried .....	2	10	K. O. H.	½ hour to 2 dys.	5 to 20	250	1-3300	1-3300
Man. ....	Wood and Linen.	10 days.	Slowly dried .....	4	20	*M. F.	2 hrs to 2 dys.	5 to 15	200	1-3300	1-3200
Man. ....	Paper . . . . .	14 days.	Decomposed from moisture.	1	10	M. F.	3 days.	not measurable.	400	1-3240	1-3200
Man. ....	Knife, . . . . .	2 years.	Well dry preserved.....	1	10	K. O. H. & M. F.	2 days.	10 to 50	400	1-3240	1-3200
Man. ....	Stone.....	6 years.	Well preserved.....	1	30	K. O. H. & M. F.	3 days.	5 to 20	500	1-3320	1-1320
Guinea-pig...	Glass.....	7 days.	Rapidly dried stains.....	6	18	K. O. H. & M. F.	1 to 2 days.	10 to 40	500	1-3400	1-3400
Wolf .....	Glass.....	7 days.	Rapidly dried stains.....	1	50	K. O. H. & M. F.	1 to 2 days.	5 to 20	1000	1-3450	1-3450
Dog. ....	Cloth.....	7 days.	Rapidly dried stains.....	4	12	K. O. H. & M. F.	1 to 2 days.	5 to 50	500	1-3650	1-3580
Rabbit .....	Knife.....	7 days.	Rapidly dried stains.....	10	30	K. O. H. & M. F.	1 to 2 days.	5 to 50	1000	1-3700	1-3662
Ox. ....	Cloth.....	7 days.	Rapidly dried stains.....	10	30	K. O. H. & M. F.	1 to 2 days.	20 to 40	1000	1-4240	1-4200
Sheep. . . .	Glass.....	7 days.	Rapidly dried stains.....	3	9	K. O. H. & M. F.	1 to 2 days.	50	500	1-5000	1-5000
Goat.....	Knife.....	7 days.	Rapidly dried stains.....	3	9	K. O. H. & M. F.	1 to 2 days.	50	500	1-6000	1-6100

\*"K. O. H." stands for 33 per cent. Solution of Caustic Potash. "M. F." for Muller's fluid.

It will be observed, on a scrutiny of these tables, that there is a marked difference between these observers in the diameter of the corpuscles of the opossum, amounting to 1-27152d of an inch, and a similar discrepency in those of the guinea-pig.

Prof. Formad challenges the correctness of Prof. Wormley's measurements and those of Dr. Woodward (1.3213). Prof. Formad says (Comparative Studies of Mammalian Blood, p. 18), that he examined ten different animals, making ten preparations in each case, and measuring 100 corpuscles from each animal, and found that the mean diameter was 1-3400 of an inch in every 1,000 corpuscles.

His results were confirmed by Drs. J. L. Hatch, A. J. Plumer, and Henry Wile, and by the celebrated Dr. Richardson, and they approximate nearer those of Gulliver.

Dr. Formad also says that Wormley's observations were of the corpuscles of one wild guinea-pig (*cavia aperia*), while Formad's examination was of the domestic (*cavia cobaya*), and that while Woodward's measurements were of the blood of the latter animal, that his micrometry was unreliable, in that he only examined 401 corpuscles, all from one drop of blood, and from a single individual.

I take pleasure, also, in quoting Prof. Wormley's observations of old blood stains, from his "Micrometry of Poisons," with his table and explanatory marks.

*Examination of Old Blood-Stains.*

ANIMAL.	Age of Stain.	Remarks.	Average.	Fresh Blood.
(1) Human . . .	2 months old.	Stain, unknown.	1-3358th inch.	1-3250th inch.
(2) " . . .	2½ " "	Stain.	1-3236th "	" "
(3) " . . .	3 " "	" "	1-3384th "	" "
(4) " . . .	19 " "	Clot.	1-3290th "	" "
(5) Elephant . . .	13 " "	" "	1-2849th "	1-2738th "
(6) Dog . . .	4 " "	Trace of stain, unknown.	1-3626th "	1-3561st "
(7) Rabbit . . .	18 " "	Clot.	1-3683d "	1-3653d "
(8) Ox . . .	16 " "	Stain.	1-4544th "	1-4219th "
(9) " . . .	32 " "	Stain, unknown.	1-4495th "	" "
(10) " . . .	4½ years "	Clot.	1-4535th "	" "
(11) Buffalo . . .	18 months "	" "	1-4312th "	1-4351st "
(12) Goat . . .	17 " "	Stain.	1-5897th "	1-6189th "
(13) Ibex . . .	18 " "	Clot.	1-6578th "	1-6445th "

In the case of the human blood, No. 1, two months old, the deposit was in the form of a thin stain on muslin, and its nature, other than that it was mammalian blood, was unknown at the time of examination. The corpuscles were readily found, and two series of thirty corpuscles each were measured. In the human blood two and a half months old, fifty corpuscles, ranging from 1-3125th to 1-3448th of an inch, were measured.

The blood-stain of the dog, No. 6, was prepared by Dr. Frankenberg, and consisted of a single stain so minute as to be barely visible to the naked eye: its nature at the time of the examination was unknown. In this instance only fifteen corpuscles were measured.

In the ox blood four and half years old, the corpuscles were rather readily obtained, and two closely concordant series of measurements were made.

In examinations of this kind it should be borne in mind that certain portions of a deposit may fail to yield satisfactory results, whilst from other portions the corpuscles may be readily obtained.

## NUMBER OF THE RED-CORPUSCLES.

The actual number of the red corpuscles have been counted with the greatest exactness by the aid of the microscope. The method employed is very simple:

A given quantity of blood is diffused as equably as possible in a thousand times its volume of an indifferent fluid, say water. A small quantity of the fluid is then taken up in a capillary tube of known caliber, and the length of the thread of fluid estimated under the microscope by a micrometer.

When the contents of the tubule have been thus ascertained, they are distributed upon a slide with a little solution of gum and allowed to dry.

This preparation is then covered with a micrometer divided into squares, and the corpuscles in the several squares can be successively counted.

This method originated with Vierordt.—(*Archiv fur Physal.* Hiel Kunde Band xi pp. 26, 327, 854. xiii p. 259.)

It has also been modified by Welker, who has counted the blood corpuscles of man and of various animals.—(*Welker Prager Vierteljahreschrift* Band xlv, p. 60. I. R. Band xx, p. 280.)

The number of red corpuscles in a cubic millimetre of blood of a healthy man is thus determined to be about 5,000,000, from which the number in a gallon, quart, pint, or ounce can be computed.

It has also been as clearly demonstrated that the relative quantity of corpuscles and plasma or serum (*liquor sanguinis*) in a hundred volumes of blood is thirty-six volumes of corpuscles and sixty-four volumes of plasma. Thus the volume of blood is 64-100ths plasma or serum and 36-100ths corpuscles. (See Prof. Stricker's Manual of Histology, Article Blood, by Alexander Rollett, translated by Henry Power, of London, Chap. 13, p. 269.)

#### VARIATIONS IN SIZE OF THE RED CORPUSCLE.

Prof. Ewell has shown by experiments that many diseases alter the size of the corpuscles, especially microcythaemia, and that they also vary in health.

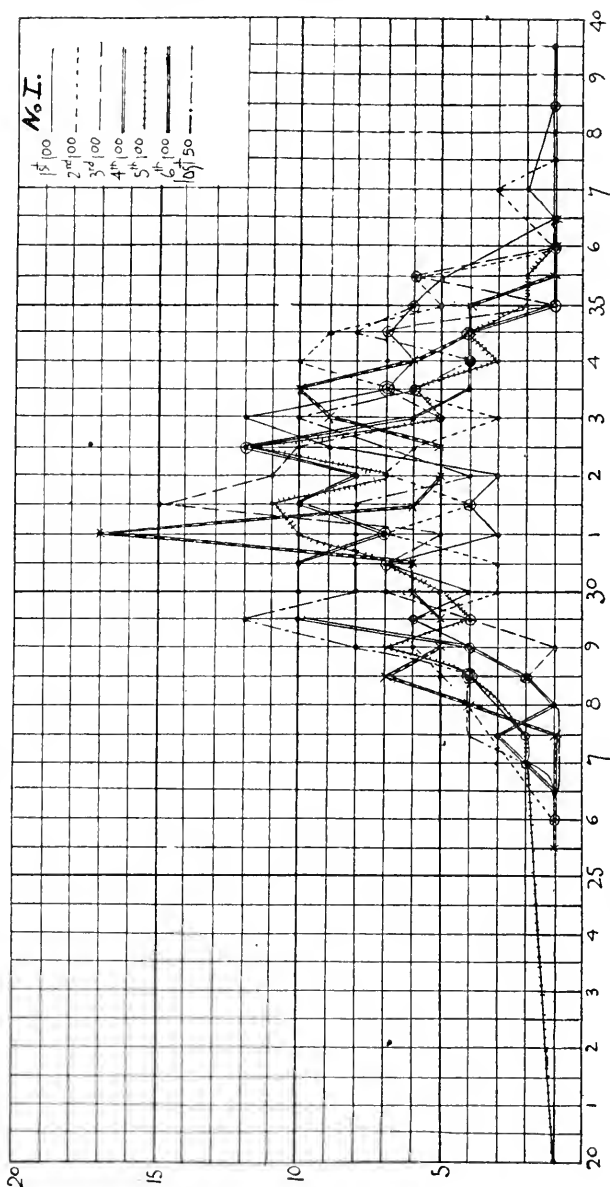
I have submitted, with his permission, three tables (I, II, and III), showing the result of the measurement of 650 corpuscles of the fresh blood of Prof. Ewell, then being in good health.

These diagrams were first drawn in rectangular co-ordinates.

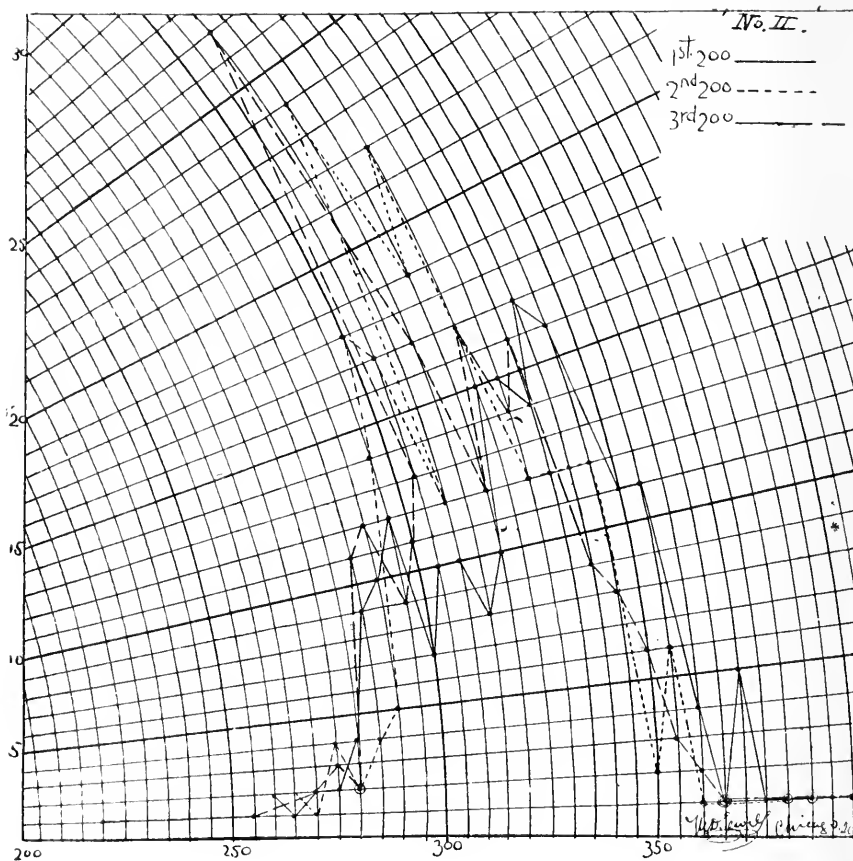
The horizontal divisions, unless otherwise noted, represent each one division of the eye piece micrometer. The vertical divisions represent the number of corpuscles, each division, unless otherwise noted, representing one corpuscle. The point of origin at the left is for want of space not shown on the diagrams. The curved lines, representing the number of corpuscles, are drawn with the point of origin as their common center, and with radii equaling the number of divisions of the micrometer subtended by them respectively. The curves, therefore, represent on a large scale the relative size of the corpuscles.



Six hundred and fifty corpuscles from M. D. Ewell.	Spencer 1-10 and Dausch & Lomb Amplifier.	1 div. of filar micrometer= .000001 inch
Mean of 1st 100.....	.....	.....=8.95
2d ".....	.....	.....=7.95
3d ".....	.....	.....=8.93
4th ".....	.....	.....=9.98
5th ".....	.....	.....=5.93
Mean of 6th 100.....	.....	.....=8.95
last 50.....	.....	.....=7.95
650 corpuscles (corrected).....	.....	.....=8.93
Largest corpuscles of the 650.....	.....	.....=9.98
Smallest ".....	.....	.....=5.93

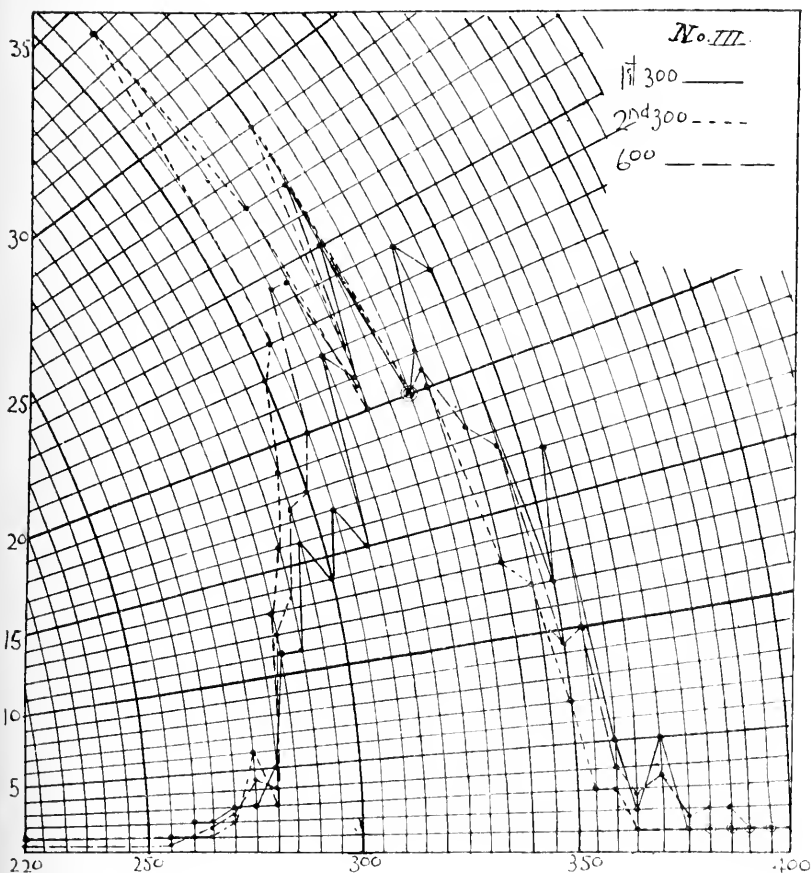


Each vertical space=one corpuscle, except in case of the last 50, where two spaces=1 corpuscle.  
Each horizontal double space=10 divisions of the micrometer.



No. II. The first 600 corpuscles of the 650 plated in No. I. Spencer 1-10, etc.  
 1st 200 mean.....=.000323 inch.....=8.20 mikrons.  
 2d " .....=.000318 " .....=8.01 "  
 3d " .....=.000317 " .....=8.05 "

Each space horizontally = 3 divisions of the micrometer.  
 Each space vertically = 1 corpuscle.



No. III. The same 600 red corpuscles. Spencer 1-10, etc.

1st 300 mean.....=.000322 inch.....=8.18

2d ".....=.000316 ".....=8.01

600 mean.....=.000319 ".....=8.10

Each horizontal space=5 divisions of the micrometer.

Each vertical space=2 corpuscles.

We are not aware that this knowledge has thus far been of the slightest use in medico-legal investigation, but it may become so, as the histological studies of blood by this author are of the greatest value.

I shall conclude this short paper with a few replies received from scientists to whom I wrote for their views upon the question of whether there was any means, now known to science, to enable the observer, by the microscope or in any other manner, to distinguish between the blood of man and the domestic animals, and notably those mammalia whose red corpuscles approximate nearest to those found in human blood.

Prof. Marshall Ewell, President of the American Microscopical Society, replied as follows :

CANTON, O., May 4, 1892.

*My Dear Sir* :—I had occasion, as an expert in the celebrated case of the murder of Dr. Cronin, to examine the question proposed for discussion, and came to the conclusion, which I have since seen no reason for modifying, that it is impossible by any means at present known to science to discriminate between dried human blood and that of the dog, rabbit, guinea-pig, or of any other domestic animal. My reasons for this opinion are given at length in a paper entitled "A Micrometric Study of 4,000 Red Blood Corpuscles in Health and Disease," a copy of which I have contributed to the Medico-Legal Society, and which is published in No. 2, Vol. 10, Medico Legal Journal.

My experience in the subject of microscopy, in which I have specialized for the last eight years, leads me to the conclusion that there is not only no advantage in the use of very high powers (1-25 or 1-50), but a positive disadvantage, if the power is so high as to impair the definition, as appears to have been the case in the work recorded in the monograph of Dr. Formad, judging from his published engravings. Dr. Formad, of Philadelphia, in that paper, appears to me to have misquoted authorities to such an extent as to lead me to repose no confidence whatever in his published results.

I know of no new advance in science in relation to the identification of blood stains since the publication of my paper above referred to.

Respectfully yours,

M. D. EWELL.

Dr. Robert Reyburn, of Washington, D. C., Vice-President American Microscopical Society, was present and took part in the discussion of the paper. He said:

The question of the method of distinguishing between the blood corpuscles of man and the ordinary domestic animals is one of great forensic importance, and has also been one of the most vexed questions in microscopical science.

The human red blood corpuscle, or cell, as is well known, is a circular disc, which is bi-concave, or hollowed inwards, on both its surfaces. When seen singly they are of a yellow hue, though in quantity, as seen in the arterial blood, they are of a scarlet red color.

We have also existing in blood the white corpuscles, which are slightly larger than the red, being 10 to 12 microns, or 1-2750 to 1-3000 of an inch in diameter, and also the blood plates, or tablets of Bizzozzero, which are from 2 to 3 microns, or 1-8000 of an inch in diameter, one-third the size of the red corpuscles; however as these component parts of the blood do not offer any satisfactory means of identification in blood stains, or clots, it will not be necessary to dwell farther upon them.

The human red blood corpuscle varies for 7.9 microns, or 1-3200 of an inch, to 6.9 microns, 1-3500 of an inch, in diameter, and are about one-fourth that in thickness (or 1 9 10.)

The variation in size of the corpuscles will rarely vary more than from 10 to 12 per cent. of the number of any blood corpuscles in any specimen of human blood. Examined we will find from 80 to 90 per cent. of the number of human corpuscles present of the average size, viz: 1-3200 to 1-3500 of an inch.

Dr. Formad, in his Monograph (Comparative Studies of Mammalian Blood), gives the following comparative measurements of blood corpuscles: Man, 1-3200 of an inch; guinea pig, 1-3400 of an inch; wolf, 1-3450 of an inch; dog, 1-3580 of an inch; rabbit, 1-3662 of an inch; ox, 1-4200 of an inch; pig, 1-4250 of an inch; horse, 1 4310 of an inch; sheep, 1-5000 of an inch; goat, 1-6100 of an inch.

After giving these various dimensions of the blood corpuscles of different animals, the question naturally arises: Where is the difficulty in measuring these? Can we not, by the accurate micrometers and microscopes we now possess, measure them just as accurately as the carpenter measures any square surface by the use of a rule or tape measure? This, however, is not the real difficulty. Our instruments of precision are amply capable of meeting the exigencies of the case, but the difficulty lies in an entirely different direction.

The trouble in our investigation of this subject lies in the fact that the blood corpuscles are living organisms that are not possessed of outlines delineated with mathematical accuracy.

They vary in the same animal, and in different species of the same animal, to such a degree as to greatly impair the accuracy of the deductions to be drawn from even the most accurate series of measurements.

Dr. J. G. Richardson, in papers published in *American Journal of Medical Sciences*, July, 1869, page 50, and July, 1874, page 102, states, as the result of his investigation, that he could invariably distinguish between the dried blood corpuscles of the man and the sheep when so situated that he could not know from what source they were derived.

He states (page 106 A. J. M. Sciences, July, 1874, or the 16th May, 1874,) my friends, Prof. J. J. Reese and D. S. Weir Mitchell, prepared for me these three packages of dried blood, from stains made by sprinkling the fresh fluid (blood) from an ox, a man, and a sheep on white paper.

These stained pieces of paper were numbered 1, 2, and 3, respectively, and given to Dr. Richardson to examine, and he succeeded perfectly in distinguishing the source from which they came by the use of the microscope.

Dr. J. J. Woodward (A. J. M. Sc. Jan., 1875, p. 151,) controverts the arguments of Dr. J. G. Richardson, and states that he believes it to be impossible to distinguish between the blood corpuscles of man and several of the domestic animals; though he confines his argument more especially to the similarity in size of the blood corpuscles of the dog to those of man.

He states (p. 158) that on making each measurement of blood containing 50 corpuscles from as many men their sizes ranged from 7.72 microns to 7.54 microns.

He compared these measurements with nine specimens of blood of different species of dogs, measuring 50 corpuscles each time, and found their sizes to range from 7.42 microns to 7.37 microns.

These measurements are so nearly alike that they seem to be practically identical, and the known accuracy and skill of Dr. Woodward gives his opinion great weight.

He further says, (p. 156,) "For myself, after repeated measurements of the blood of the dog and human blood, I can only say that I find no constant difference between them, whether the fresh blood or thin layers dried on glass be selected for measurement."

The mean of 50 corpuscles taken at hazard is seldom twice the same, and sometimes that of human blood, sometimes that of dog's blood, is a trifle the largest.

In his Monograph, Comparative Studies of Mammalian Blood (p. 19 and 47), Dr. Henry F. Formad has shown, however, that the measurements given by Dr. Woodward were erroneous and misleading, and would not now be accepted by any haematologist of the present day.

Dr. Alexander Eddington, in a paper published in the *British Medical Journal*, 1890, (p. 1233,) gives an interesting account of the present state of our knowledge regarding the blood, and gives his own observations upon the subject. He shows the very varying sizes of the human red blood cells and the readiness with which this variation takes place.

There is namely a distinct variation in the aggregate size between meals, the minimum occurring soon after a meal, while the maximum is seen at the end of a period of fasting. He also states the red blood corpuscles are diminished in size at the termination of an acute fever, after an exanthematous disease (such as scarlet fever or measles), while they are the largest during the fever. They are small in septic conditions, such as pyemia and erysipilas, which have lasted some time.

F. Detmers (Proceedings of American Society of Microscopists, 1887, p. 216,) has given a valuable series of measurements of blood corpuscles, from which I extract the following, (Ibid, p. 219): "After carefully examining the specimens of blood I can assert, without fear of contradiction, that

there can be no question but the blood of human beings can be readily distinguished from that of such animals as the mule, cat, calf, horse, etc., and still more readily from cattle, sheep, and pigs."

Dr. Formad (Ibid, p. 20) calls attention to the great value of photographs taken of blood corpuscles under very high magnifying power, such as ten thousand diameters. Under such magnification the differences between the differences in sizes between those of man, dog, ox, sheep, and goat, become readily distinguishable by the naked eye.

The following seems to me to represent the present state of our knowledge of blood stains from other stains with which we might be confounded :

1. Blood stains can be certainly and absolutely differentiated from stains produced by other colored fluids, by the presence or absence of the red blood corpuscles.

2. The blood corpuscles of birds, fishes, and reptiles, being oval and nucleated, can never be mistaken for those of human blood.

3. If the average diameter of the blood corpuscle in any specimen of blood (containing at least one hundred, and better five hundred corpuscles,) is less than 1-4000 of an inch, it cannot possibly be human blood.

4. If the blood corpuscles have an average diameter of from 1-3200 to 1-3300 of an inch, then *it is human blood*, (excluding the blood of the beaver, guinea pig, kangaroo, monkey, muskrat, porcupine, seal, or wolf.) None of these are domestic animals, and stains produced by their blood can scarcely ever be met with under such circumstances as to be confounded with stains of human blood.

5. The blood corpuscles of the dog 1-3580, rabbit 1-3662, ox 1-4200, pig 1-4250, horse 1-4310, sheep 1-5000, goat 1-6100, can, by the use of high magnifying power, and the careful counting of 100 to 500 corpuscles, be differentiated from human blood corpuscles, both in recently shed blood and dry blood stains.

The late gifted Prof. Henry F. Formad replied under date of May 9, 1892, upon the subject, as follows :

3535 LOCUST ST., PHILADELPHIA, Pa., 5-9-'92.

CLARK BELL, Esq. :

*My Dear Sir* :—I have written lately on blood and blood stains, but cannot lay my hands just now on these recent publications. I send you with this mail a copy of one of my monographs on blood and blood stains, which is the most complete one on the subject written either by myself or anyone else of late years. From the perusal of this monograph you will glean to your satisfaction what is known to the present day upon this intricate subject.

Nothing new has been done on blood stains since the writing of this article.

Our methods of investigating blood are, however, improving step by step with the improvement of the microscope and the modern appliances of the same. What was impossible to do ten or twenty years ago, viz : the distinction between the different size of corpuscles, is at present a comparatively easy matter. The older statements that human blood cannot be

distinguished, even in its dried state, from that of the ordinary domestic animals, is erroneous.

There is difficulty of telling human blood from that of the guinea pig, opossum, dog, rabbit, or monkey, and certain wild animals, but there is no difficulty at all of discriminating the blood of the "ox" species, pig, horse, sheep, goat (even in its dried state), from that of man, on account of the much smaller measurements of the blood corpuscles. \* \* \*

I will say, in conclusion, that whereas it is impossible to say with certainty that any given blood stain, new or old, is due to human blood, it is quite possible to state that it is the blood of a mammal, and that it is consistent with human blood, and that it is not the blood of certain domestic animals. For details about this question I must refer you to my monograph, now in your hands. I much regret I will be unable to be present at the reading of your paper on this subject, but I hope to see it in print.

Dr. R. J. Nunn, of Savannah, Ga., an experienced observer, and one of the Vice-Presidents of the American Microscopic Society, replied as follows :

119 YORK ST., SAVANNAH, GA., May 9, 1892.

CLARK BELL, ESQ.,

President Medico-Legal Soc.,

57 Broadway, N. Y.,

*Dear Sir* :—Of the possibility of distinguishing between the blood of animals and of man, I have not the least doubt, but that it is always successfully done I very much doubt ; nor do I think that the differentiation should be built upon one characteristic alone, and, further, it will require special training and enormous practice, to reduce the observation to anything like certainty.

In a medico-legal aspect, I think such observations should only be regarded as confirmatory, as should be the case with all delicate scientific investigations. The improved scientific observations of to-day too often refute the certainties of yesterday, and remove them from the domain of positive evidence.

Dr. Ira Van Giesen, of the Pathological Laboratory of the N. Y. College of Physicians and Surgeons, N. Y. City, a very careful student of the science, replied as follows : (He was present at the session and took part in the debate.)

I have always felt wholly unable to distinguish dried up human blood from the domestic mammalia with the microscope, simply because the red blood cells swell up so irregularly that measurements are unreliable. Nor do I know of any other way of settling this question.

I shall endeavor to be present at the meeting of May 11th, and thank you for your kind invitation to the same.

Dr. F. W. Draper, of Boston, an experienced observer, replied as follows :



My opinions on the subject of the value of expert testimony concerning the identification of human blood stains cannot be better expressed in a few words than by making use of a quotation from Formad's valuable monograph. He writes, after full discussion of the views of various authorities : "If the testimony is, as customarily, worded : 'The blood is consistent with human blood,' it is usually quite satisfactory to the prosecution, and is an expression sufficiently guarded." Beyond this point, I do not think science is at present prepared to go.

Prof. Wormley, of the University of Pennsylvania, replied as follows :

PHILADELPHIA, May 6, 1892.

CLARK BELL, ESQ. ;

*Dear Sir* :—In reply to your kind invitation, it would give me much pleasure to hear your paper on "Blood and Blood Stains," on the 11th inst., but a previous engagement will prevent my being present.

The results of my own investigations upon this important subject are so fully expressed in my article upon this subject in the *Micro-Chemistry of Poisons*, that I have nothing special to add.

I am, very truly yours,

THEO. G. WORMLEY.

Dr. Charles Heitzman, of New York, an experienced microscopist, replied as follows :

My experience is limited to the blood of the ox and the dog, as compared with human blood, especially also in a dry condition. As to their discrimination, the results of my observation are negative, viz : I would be unable to positively tell a difference between the blood corpuscles of man and the named animals.

Thanks for your kind invitation, but my evenings are taken up by laboratory work, and I could not promise to be present.

#### MICROMETRY.

The most important factor in accurately determining the exact measurements of the diameters of blood corpuscles is the micrometer.

It is not from the microscope or its teachings that differences have arisen, and concerning which divergences of views occur among observers.

It must be considered and remembered that the claims of discrimination as to the size of the red blood corpuscle in the various animals rests upon the accuracy and reliability of the measurement of mean diameters.

A brief statement of the methods employed in reaching the results that have been generally accepted as standard and reliable mean measurements will throw light upon the subject, and at the same time illustrate the views of those who differ so widely as to the reliability of attainable results. The methods employed by observers must have great weight in determining the value and accuracy of results.

#### FORMAD'S METHOD.

Place a drop of blood upon a slide, and quickly draw the edge of another slide across the field in such a manner that the corpuscles become as evenly distributed as possible between the slides.

Then use a good microscope, provided with a homogeneous immersion lens, and two micrometers, the one a stage piece, the other an eye piece micrometer.

The stage micrometer is used to establish the correct value of the lines ruled on the micrometer, and consists of a glass slide ruled to a scale either in M. M. or fractions of an inch. The English standard slides are ruled by a series of lines 1-100 of an inch apart, one of these divisions having further subdivisions into thousandths of an inch, and in some still smaller subdivisions.

Of course all depends upon the absolute correctness of these rulings, and they should be carefully tested before using.

The safest way is to use a high power compare one division with another carefully, and note the discrepancies, using only such as are exact and precisely correct. The eye piece micrometer is a slip of glass with fine lines ruled to a uniform scale, which fits into the eye piece of the microscope.

When in position the stage micrometer notes how many of the divisions on the eye piece micrometer are required to

fill one of the divisions of the stage micrometer; for example, if a 1-12 Zeis's hom mer lens is used, and under this amplification, the 1-000th of an inch division of the stage and scale covers exactly twenty places in the eye piece scale, then each division of the eye piece micrometer will be equal to the 1-20000th of an inch.

The higher objectives will increase the value of the divisions; lower ones will decrease them, but that under all circumstances the same conditions must be observed.

When thus adjusted, bring the slide containing the drop of blood into focus under the eye piece micrometer, previously adjusted, and observe the number of division or fractions of a division of the eye piece micrometer that a corpuscle may occupy.

For example, if it should fill exactly four spaces, then its value would be under 1-20000th of an inch. Standard 4-20000 or 1-5000 of an inch.

Measure one hundred corpuscles in this manner, taking actual measurements and noting them, and from different slides that have been tested, and then take an average of the result. The measurements should be made only of perfectly round bi-concave corpuscles, and carefully recorded. All small or crenated blood corpuscles should not be counted.

Dr. Carl Seiler, of Philadelphia, introduced the micrometry of blood corpuscles from photographic negatives, which has also been done by Dr. Woodward, of U. S. N.

The plan is to mount the blood directly upon a glass stage micrometer and to photograph them with any desired amplification, both blood and micrometer appearing sharply defined in the picture. The measurements are then made directly upon the negative.—(Formad's Comparative Studies of Mammalian Blood, pp. 7 and 8.)

## PROF. EWELL'S METHOD.

Prof. Ewell is the President of the American Society of microscopists, and he kindly furnished me with his method of making microsmetric measurements.

He says: "The first requisite, of course, in making measurements of a microscopic object, is a correct standard of length; which may be either the 1-1000th or some other

minute fraction of an inch, or the one 1-100th or other fraction of a millimeter.

The corrections of the standard used should of course be ascertained.

We will assume that the standard used is the 1-1000th part of an inch, and when viewed under the microscope the image appeared to be as shown in

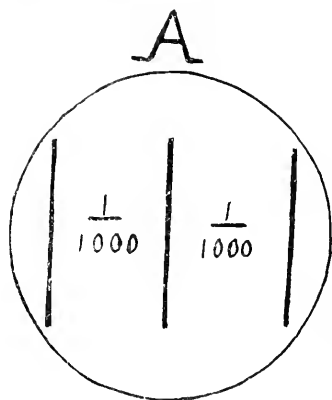
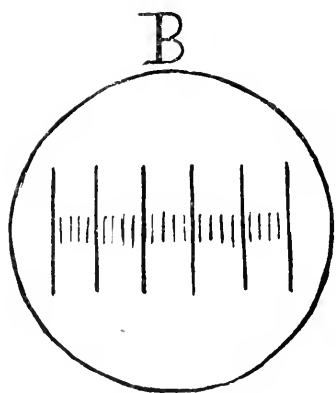


Fig A.

In the eye piece of the microscope is another scale, ruled

to any convenient fraction of an inch, say to the 1-1000th part of an inch, with the fifth and tenth line longer. *Vide* Fig. B.

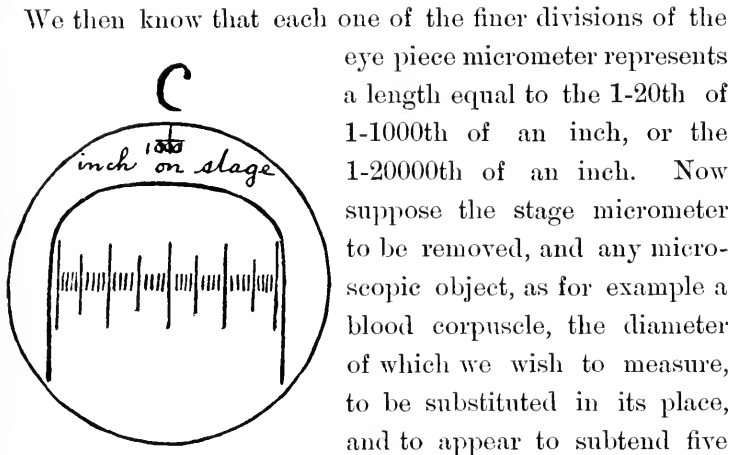


On looking through the microscope at the 1-1000th of an inch on the stage, we see projected upon it, in the same field, the image of the lines ruled upon the glass circle in

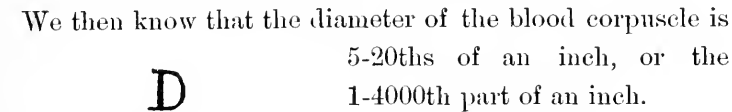
the eye piece. *Vide* Fig. C.

We will suppose that twenty spaces of the eye piece

micrometer exactly coincide with the terminal lines of the 1-1000 of an inch, as shown in the figure C.



divisions of the eye piece micrometer, as shown in Fig. D.



We then know that the diameter of the blood corpuscle is 5-20ths of an inch, or the 1-4000th part of an inch.

This is the simplest manner, and I may add a very reliable manner, when used with high powers, of making micrometric measurements.

My experience shows, that with very high powers, substantially the same results can be obtained in this manner as by the use of the most elaborate means, namely: The filar micrometer, which consists of a cob-web moved across the field in the focus of the eye piece, by a very fine screw, with an index head divided into 100 equal parts."

This contribution is made to scientists and medico-legal jurists throughout the whole world, to invite discussion and

original research upon this subject, so important to the administration of justice in the criminal courts of all countries where persons charged with homicide are guilty or suspected, and the evidence of blood on garments or weapons require the examination of the scientific medico-legal jurist.

# A MICROMETRIC STUDY OF FOUR THOUSAND RED BLOOD-CORPUSCLES IN HEALTH AND DISEASE.\*

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BY MARSHALL D. EWELL, A. M., M. D., LL. D., F. R. M. S., PROFESSOR OF COMMON LAW IN UNION COLLEGE OF LAW,  
CHICAGO, ETC.

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Since the time when Joseph's wicked brethren dipped his beautiful coat of many colors in the blood of a kid, for the purpose of deceiving their father, the subject of the identification of blood has been an object of more or less interest. Many methods have been proposed by which this end might be accomplished. Early in this century (1829) prominent medico-legal jurists, when called to testify on the trial of persons accused of murder, testified that by the sense of smell blood could be identified when treated with from one-half to one third its bulk of sulphuric acid.

More recently it has been claimed that blood could be identified by the so-called "blood pictures" caused by the evaporation of a solution of its red coloring matter upon glass.

Again it has been claimed that it could be identified by a comparison of the forms of hæmatin crystals. It seems unnecessary to state that these methods are now entirely abandoned.

Among the methods still in use to a greater or less extent may be mentioned Teichmann's process by obtaining hæmin crystals. This method, however, often fails.

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\*Read before the Medico-Legal Society October, 1892.

The guaiacum test is still used to some extent, and, in connection with other tests, will often be found useful; but is open to some fallacies.

Among the tests which are not open to fallacy is the spectroscopic test, by the comparison of blood spectra. This test, however, only identifies blood as being mammalian blood, and does not serve to identify the animal from which it came. In this connection the recent test proposed by Dr. S. Moncton Copeman, of England, should be mentioned. This test has not, however, been sufficiently long in use to enable one to speak of its merits.

Another test is the identification of red blood-corpuscles by means of the microscope. Whenever circular, non-nucleated blood-corpuscles are thus found, their presence is proof of mammalian blood. Ever since 1846 it has been claimed with more or less positiveness that with certain limitations the different species of mammalian blood can be positively identified by the micrometrical measurement of the red corpuscles. The late Dr. Richardson, of Philadelphia, was the most prominent advocate of this claim; and lately the claim has been renewed by Dr. Formad, of the same city, with even more positiveness than by Dr. Richardson. The celebrated controversy between Dr. Richardson and Dr. Woodward is probably fresh in the recollection of most readers. Dr. Richardson has stated, however, in an article published in Vol. 13 of the *Monthly Microscopical Journal* (London), on page 215, that so far as he was aware there was in 1875 "no method known to science, microscopical or otherwise, for distinguishing the blood of the dog, monkey, rabbit, musk-rat, elephant, lion, whale, seal, or, in fact, any mammal whose corpuscles measure more than 1-4000 of an inch in diameter."

Thus stood the controversy until 1888, when Dr. Formad, on page 28 of his "Essay on Comparative Studies of Mam-



malian Blood," refers to the work of Dr. Richardson in the following terms: "He was one of the most prominent advocates of the positive diagnosis of human blood from that of *all* domestic animals by means of micrometry under high amplification." Again, on page 29, he uses this language: "Surely human blood can be told from that of all domestic animals, not counting the guinea-pig as a domestic animal. It depends, however, on whose figures are accepted for the mean diameter of this animal's corpuscles whether the guinea-pig's blood may be mistaken for human." The above quotation from the article by Dr. Richardson seems quite unambiguous, and does not seem to warrant the statement of Dr. Formad, above quoted.

This question has engaged the attention of the writer a considerable portion of his leisure since 1885. In the investigation of this question several preliminary questions present themselves for solution; among these is that of standards of length. Unless one is acquainted with the errors, if any, of the micrometer used by him as the standard upon which his measurements are based, the results obtained by him are positively worthless. Any one who has given this subject any attention can easily discover that if there was ever an absolutely perfect micrometer put upon the market, its perfection was due to accident and not to art. Errors in micrometry may arise from several sources, the principal of which are: 1st, errors in the ultimate subdivision of the stage micrometer used; 2d, errors in the valuation of one division of the eye-piece micrometer used; 3d, errors of focus; and, 4th, what is known as the personal equation. A full discussion of these sources of error would occupy more space than is allotted for this entire article. That such errors exist and are not insensible can be easily ascertained by any observer possessing the requisite apparatus and skill and patience in their use.

Eye-piece micrometers used in this sort of work are usually the ordinary Jackson micrometer or the filar micrometer. The method employed by some observers of projecting an image of the corpuscles on paper by means of the *camera lucida* is open to so many objections as to be entirely unreliable. As to the relative merits of the Jackson and filar micrometers it may be stated, as the result of observations made by the writer for the express purpose of determining this question, that with low powers the filar micrometer is vastly superior; with very high powers, on the other hand, there does not seem to be very much difference between them in the hands of a competent observer; and in the measurement of blood-corpuscles errors arising from the use of the Jackson micrometer will be practically insensible as compared with errors arising from defective focusing and improper manipulation of the light. In measurements with high powers defective focusing and improper manipulation of the light may be fruitful sources of error.

In the observations hereinafter recorded the value of one division of the eye-piece micrometers was determined from a long series of observations of different subdivisions of "Centimeter A" of the American Society of Microscopists, and of a speculum centimeter which had been carefully compared therewith, and with standards in the possession of the United States Coast Survey office; so that considerable confidence is felt in their accuracy.

The instruments employed consisted of a Spencer 1-10 homogeneous immersion objective, in connection with a Bausch and Lomb amplifier, giving an amplification of 1,500 diameters; a Zeiss 1-18 homogeneous immersion objective, giving an amplification of 1,800 diameters; a Bullock professional stand No. 2; a Bullock filar micrometer; and a Jackson micrometer ruled to 1-1000 of an inch. With the Spencer 1-10 and amplifier one division of the filar micro-

meter equaled 1-1000000 of an inch; and with the Zeiss 1-18 and Jackson micrometer one division equaled 0.1725 mikrons. In the earlier observations the English scale was used; but in the later ones the metric scale was used exclusively.

Having disposed of these preliminary considerations the question arises: In what condition shall the corpuscles be measured—dry or wet? All of the observations hereinafter recorded, except when otherwise mentioned, were made with a thin film of blood spread upon a slide or cover-glass and allowed to dry, this being the method usually adopted by workers in this department of micrometry.

The first question proposed for solution is: Is there a constant, continuing average diameter of the blood-corpuscles of the same person, and how many corpuscles must be measured in order to ascertain it? In endeavoring to settle this question the writer in 1885 measured six hundred and fifty corpuscles taken from his finger, prepared in the manner above described, and measured with a Spencer 1-10 and filar micrometer under as nearly identical conditions as possible. The results of these observations will be found in the following table, and also in the diagrams accompanying this paper:

Average of each 100: June 24-27, 1885.....	(1)	.000322''=8.18 mikrons
Average of each 100: June 27-29, 1885.....	(2)	...324 =8.23 mikrons
Average of each 100: June 30-July 2, 1885.....	(3)	...321 =8.15 mikrons
Average of each 100: July 7.....	(4)	...315 =8.00 mikrons
Average of each 100: July 9.....	(5)	...316 =8.03 mikrons
Average of each 100: July 11.....	(6)	...318 =8.08 mikrons
Average of last 50: July 17.....		...313 =7.95 mikrons
Average of each 200: June 24-29 .....	(1)	...323 =8.20 mikrons
Average of each 200: June 30-July 7.....	(2)	...318 =8.08 mikrons
July 9-11.....	(3)	...317 =8.05 mikrons
Average of 650 corpuscles, (corrected.).....		.000316 =8.03 mikrons=1-3162 inch
Smallest corpuscle of the 650.....		...198 =5.03 mikrons=1-5050 inch
Largest corpuscle of the 650 .....		...393 =9.98 mikrons=1 2444 inch

From these observations it would seem that when the subject, during the entire period through which the observations extend, (such period not being long, 18 days in this

case,) is and continues, as respects his bodily health, in substantially the same condition, and at least one hundred blood corpuscles are measured under identical conditions, there is an average size sensibly constant; but it is to be observed that these observations do not determine whether this mean size continues constant, whether it changes from year to year, or whether the same mean would be obtained by another observer. These questions require further observation. The notorious discrepancies between the averages obtained from the measurement of the blood-corpuscles of animals of the same species by different observers, and the discrepancies between the measurements of the same ruled spaces by different observers hereinafter to be described, would seem to indicate that some of these questions should be answered in the negative.

Are the discrepancies in the measurements made by different observers, found in their published results, due to real differences in the diameter of the blood-corpuscles, or may they be explained by errors of measurement, or are they due to both causes combined? These differences are notorious, amounting to nearly two mikrons in some cases. As errors of observation and real differences of size, if they exist, both enter into the results obtained, it is usually impossible to separate them and to say exactly how much is due to one and how much to the other.

Some years since, in order to test the relative accuracy of micrometric measurements with different apparatus in the hands of different competent observers, the writer ruled on a glass slide 15 spaces of approximately .004 and .008 inch, without applying any corrections for the errors of the screw of the ruling engine, and put the slide in the hands of a well-known microscopist, who has had much experience in micrometry, with the request that he measure the spaces and transmit the results to the writer under cover of a sealed

envelope, and then hand the plate to some other competent observer, who should do the same, and so on. No one of the observers knew the results arrived at by the others till the work was entirely completed, and the tabulated results read at a meeting of the State Microscopical Society held in Chicago. The results were quite striking. As will be noticed, all the observers used Rogers's stage micrometers, which, as is well known, are the most accurate scales in the market. Nevertheless the discrepancy in these measurements amounted in many instances to nearly 3 mikrons. These measurements were not made by novices, but by expert manipulators, most of whom have had long experience in the use of the microscope and micrometer.

The table needs no further explanation than that the measurements are to the nearest one one hundred thousandth of an inch.

The English, rather than the metric system, was chosen for the reason that some of the observers had no metric scale, and it was thought advisable that each series of measurements should be on the same scale, as well as entirely independent of the others. Under each measurement will be found the correction "+" or "-" necessary to make the measurements equal to the mean.

## FIRST SERIES OF TEN SPACES.

INSTRUMENTS USED.											
1	2	3	4	5	6	7	8	9	10		
Dr. C.....	.00404"	415	417	415	411	407	409	408	405	404	4-10 objective ; Bulloch filar micrometer ; Rogers' stage micrometer ; mean of 5 measurements.
	+6	+2	+5	+6	+6	+4	-1	-1	+2	+4	
Prof. B..	415	418	419	415	412	410	407	408	408	408	$\frac{1}{2}$ objective ; camera lucida ; Rogers' stage micrometer ; mean of 5 measurements.
	-5	-1	+3	+6	+5	+1	+1	-1	-1	0	
Mr. B....	411	418	426	423	420	411	407	407	409	412	4-10 and $\frac{1}{2}$ objective ; Bulloch filar micrometer ; Rogers' stage micrometer ; mean of 20 measurements.
	-1	-1	-4	-2	-3	0	+1	0	-2	-4	
Mr. H....	412	419	427	427	419	412	410	407	408	410	Gundlach 1-5 objective ; camera lucida ; Rogers' stage micrometer ; mean of 5 measurements.
	-2	-2	-5	-6	-2	-1	-2	0	-1	-2	
Mr. S....	409	417	425	425	421	413	409	409	409	409	$\frac{1}{2}$ Hartnack objective ; Rogers' glass eye-piece micrometer ; Rogers' stage micrometer ; mean of 5 measurements.
	+1	0	-3	-4	-4	-2	-1	-2	-2	-1	
Dr. E....	409	415	421	422	417	410	405	404	405	408	1 and 3-5 Zeiss objective ; Bulloch filar and Rogers' screw stage micrometer ; Rogers' stage micrometer and "Cm. A." ; mean of 13 measurements.
	+1	+2	+1	-1	0	+1	+3	+3	+2	0	
Mean....	410	417	422	421	417	411	408	407	407	408	

## SECOND SERIES OF FIVE SPACES.

	1	2	3	4	5	
Prof. B.....	.00840"	843	832	815	821	Same apparatus as above, and same number of measurements.
	-1	+2	+2	+3	+2	
Mr. B.....	839	848	834	821	822	
	0	-3	0	-3	+1	
Mr. H.....	.843	843	837	815	826	
	-4	+2	-3	+3	-3	
Mr. S.....	842	850	834	822	826	
	-3	-5	0	-4	-3	
Dr. E.....	833	843	831	816	819	
	+6	+2	+3	+2	+4	
Mean.....	839	845	834	818	823	

Same apparatus as above, and same number of measurements.

do do do do do do

do do do do do do

do do do do do do

do do do do do do

In discussing the results of this table, it will be observed that every observer used a standard stage micrometer by the same maker. The greater part of the discrepancies in the above results are probably due to a variety of sources of error, partly instrumental and partly personal, which, with the data at hand, it would not be easy to designate with certainty, but the principal of which are probably the failure of most of the observers to make a sufficiently large number of measurements, both in determining the value of one division of the eye-piece micrometer, and also in the direct measurement of the spaces to be measured. The probable error of a single comparison of a long series of comparisons made by the writer, with a filar micrometer and  $\frac{1}{4}$ " objective, between the standard of the American Society of Microscopists and his own standard micrometer was, by the method of least squares, 38-100 of a mikron = (approximately) 1-62500 of an inch; while the probable error of the result of 55 comparisons (880 single micrometer readings) was only 5-100 of a mikron, or, approximately, 1-500000 of an inch. The discrepancy between some of the measurements in the above table and the mean of the whole is as great as 1-17000 of an inch, while the difference between some of the results of the different observers is greater than 1-9000 of an inch, and *had not the mean of at least five measurements been taken in every instance, this discrepancy must have been much greater.* As it is, it is greater than the greatest difference between the different measurements of the blood-corpuscles of man and some common domestic animals, *e. g.*, dogs. The bearing of these results upon the measurements of blood-corpuscles is obvious. To the objection that a low power was used in every instance, it may be answered that where the power is high enough to make the object clearly visible and of an appreciable size, as was the case in these measurements, and where a *series* of measurements is made, the result is practi-

cally the same as if a higher power were used. At least such is the writer's experience in comparing lengths from 1-100 inch up to 4 inches.

The late Dr. Richardson claimed that the results obtained by him were largely due to the use of a very high power, 2,500 to 5,000 diameters. From a series of measurements of the same spaces with medium and high powers (360 to 2,250 diameters), the writer is satisfied that this claim is not well founded. The results obtained with a  $\frac{1}{4}$  objective were almost identical with those obtained with a Spencer 1-25 and Zeiss 1-18. In these observations a filar micrometer was used in every instance. Full details will be found in the proceedings of the American Society of Microscopists, 1889, p. 64.

In order to illustrate somewhat more fully the fact that identical results are not to be expected even by the same observer, when the measurements are made at different sittings, the three series of measurements made by the writer (the mean of which is given in the above table), are here given, from which it will appear that even with the best apparatus varying results are to be expected. The first series, which is the mean of five measurements, was made with an excellent Bulloch filar micrometer, a Bulloch stand, and a 3-5 Zeiss objective; the second, which is also the mean of five measurements, was made at another sitting with the same apparatus, except that a 1" Zeiss objective was used. The third series of three measurements was made with a Rogers' screw comparator, the screw of which has no perceptible error. The value of one division of the filar micrometer and the index of the comparator was in each case determined *from the same standard*, after a large number of measurements, and the different series were made as nearly under the same conditions as possible. The re-



sults arrived at are probably as harmonious as could be expected from the small number of micrometer readings.

FIRST SERIES.					SECOND SERIES.			
No. of space.	3-5" Zeiss.	1" Zeiss.	Comparator 1" Zeiss.	Mean.	No. of space.	3-5" Zeiss.	1" Zeiss.	Mean.
1	.00408"	.00407"	.00411"	.00409"	1	.00833"	.00831"	.00833"
2	.00416	.00414	.00416	.00415	2	.00843	.00841	.00843
3	.00420	.00420	.00422	.00421	3	.00831	.00829	.00831
4	.00422	.00419	.00425	.00423	4	.00818	.00814	.00816
5	.00416	.00417	.00417	.00417	5	.00820	.00818	.00819
6	.00411	.00408	.00411	.00410				
7	.00404	.00403	.00407	.00405				
8	.00404	.00402	.00406	.00404				
9	.00405	.00405	.00406	.00405				
10	.00407	.00406	.00410	.00408				

In this state of facts the weight to be given to the measurement of only a few corpuscles, often with crude apparatus and worse methods, making only a single measurement of each corpuscle, ought not to be very great. It seems to the writer that most workers in this line have commenced at the wrong end of the subject, and taken for granted the most important parts of the process, error in which will invalidate every subsequent step.

Since the above measurements were made the writer has ruled another slide in spaces ranging from 1-2500 to 1-5000 of an inch and submitted the same to several experts for measurement; but supervening illness has prevented a reduction of these observations, and they must therefore be reserved for future publication.

All the preceding measurements of blood-corpuscles refer to fresh blood from a healthy adult. Four inquiries are here opened up: (1) As to the effect of desiccation of blood in a clot; (2) the effect of age upon the size of the corpuscles; (3) the effect of disease; and (4) the effect of various other physical conditions, such as fasting, the exhibition of drugs, etc.

1. As to the effect of desiccation of blood corpuscles in a clot: The question which meets us here at the outset is: Can corpuscles once shrunk and deformed by drying in a clot be restored to their normal size? That the difficulty of the identification of the blood-corpuscles is greatly multiplied by desiccation in a clot is conceded by even the most sanguine of the advocates of such identification. Dr. Formad, who is perhaps more positive in his conclusions than any other writer, insists, on page 55 of the essay above cited, that in a medico-legal case not less than five hundred measurements of the corpuscles must have been made, various formulæ for restoring re-agents are to be found in the books, the favorite ones of which appear to be the normal salt solution ( $\frac{1}{2}$  per cent.), a 10 per cent. solution of glycerine, and a 30 per cent. to  $33\frac{1}{3}$  per cent. solution of caustic potash. Various other formulæ will be found in the books. Returning now to the question above propounded—whether corpuscles once shrunk by drying in a clot can be restored to their normal size and condition—the writer asserts, without fear of successful contradiction, that the affirmative to said question, so far as it appears in the literature on the subject, is a pure and gratuitous assumption, unsupported by evidence. In order to settle the question, it would be necessary first to measure the corpuscles in their fresh state, then to submit them to the process of drying in a clot, then to restore them by means of some alleged restorative solution, and then re-measure the same corpuscles in their restored condition. So far as we can ascertain this has never been done. The writer has tried various favorite solutions recommended by the principal authors upon this subject, and the results arrived at were such as to destroy all confidence in such alleged restoration. Among other solutions he has used a 10 per cent. solution (specific gravity 1028) of chemically pure glycerine, manu-

factured by James S. Kirk & Co., of this city; also a 10 per cent. solution of Price's glycerine, the normal salt solution, and a 30 per cent. solution of caustic potash, but to no purpose.

As a rule blood brought to the medical jurist for examination is presented to him in a more or less disorganized and demoralized condition, on scraps of paper, cloth, leather, plaster, wood, etc., which have been subjected to the Lord only knows what conditions and vicissitudes, unknown factors which for aught the observer knows may materially affect the desired result. In view of what has been above written, to attempt to identify blood by the measurement of corpuscles under such circumstances requires more courage than the writer possesses.

2. As to the effect of age, it is conceded by all respectable authors the red blood-corpuscles from very young animals are larger and vary between wider extremes than those of healthy adults. These conclusions are corroborated by the observations hereinafter recorded upon the blood of an infant thirty-six hours old and upon the blood of several young puppies.

3. That disease has an effect upon the size of the red blood-corpuscles must be conceded by every one who has studied the subject. A variety of observations upon this subject will be found scattered throughout the literature of the subject. There is a disease known as microcythæmia, which, in particular, has a most remarkable effect upon the size of the corpuscles. The disease will be found described in Zeigler's *Pathological Anatomy*, section 261, and more fully by Professor Samuel (Königsberg), *Realencyklopädie der Gesammten Heilkunde*, vol. xiii, p. 93. The average size of the corpuscles in this disease may run as low as 6 mikrons or even to 2 mikrons. In this disease observations have been made which are of particular importance in this

connection, namely, that the average size of the corpuscles varied sensibly within a short time, in one recorded case within a period of three hours, the microcytes having within that time entirely disappeared. Without further reference to the literature upon this subject, which would occupy too much space, the attention of the reader is invited to the accompanying series of measurements and plates of the blood of patients suffering from a variety of diseases. The diagnoses of the diseases of those patients, who were inmates of the Cook County Hospital, were taken from the daily records of the attending physicians having charge of the patients. The diagnoses of those cases from the South Side dispensary were made by the physicians in charge at the time. The diagnoses of the two cases of pseudo-leucocythæmia were made by Dr. Lester Curtis, of this city, to whom the author desires to express his obligations for material assistance by way of references to the literature upon the subject. The blood measured was in every instance either drawn by the writer in person, after an inspection of the patient, or by some one in his immediate presence, and it is believed that the diagnoses can be relied upon as correct.

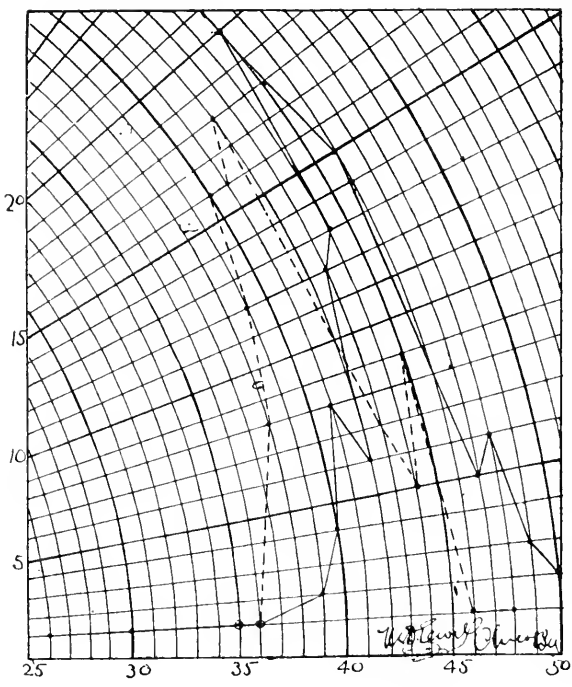
4. As to the effect of fasting, we desire to make especial reference to the study by Dr. Lester Curtis of the blood of Mr. John Griscom, made during a prolonged fast in the year of 1881, which will be found reported in full in the proceedings of the American Association for the Advancement of Science, vol. 30. This study is very instructive, but lack of space precludes any extended quotations therefrom. Suffice it to say that the general conclusion to be derived from a perusal of this paper is that the effect of fasting is, among other things, to diminish the size and number of the red blood-corpuscles. A great many very small corpuscles were found in the blood of this subject, some as small as

the 1-12000 and 1-20000 of an inch in diameter. This observer also states that during this study he repeatedly saw blood-corpuscles subdivide and form themselves into two circular red blood-corpuscles in the field of the microscope.

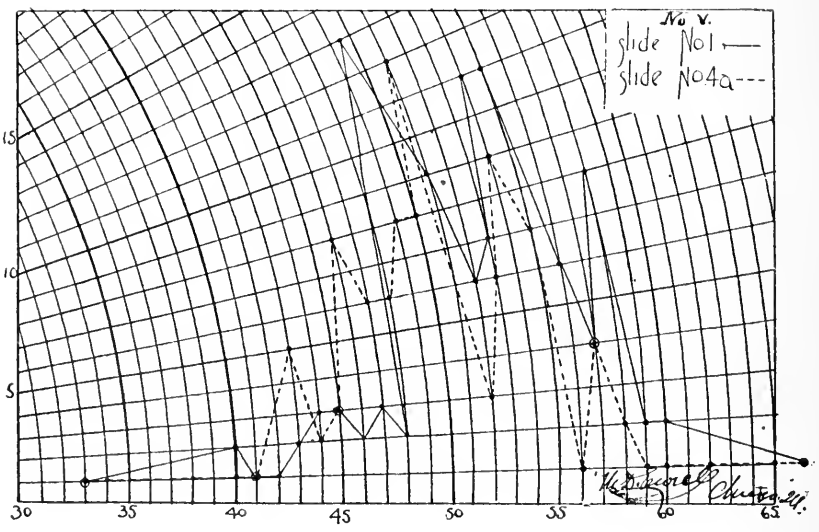
It is well known that various drugs also effect the size of the red blood-corpuscles, but inasmuch as the writer has no observations of his own on this subject, he contents himself with a general reference to the literature upon the subject.

The bearing of these observations upon medico-legal cases involving the identification of blood by the measurement of red corpuscles is obvious. In such cases the specimen submitted for examination is usually, if not always, presented in the form of a clot which, as above stated, may and probably has been subjected to a multitude of variable factors. So long as these factors and their effects are unknown it seems to the writer the height of temerity to attempt to identify the blood; and in the present state of scientific knowledge for an expert to attempt such an identification without a precise knowledge of the existence and effect of all these factors is, in the words of Dr. Woodward, to render scientific experts more dangerous to society than the very criminals they are called upon to convict.

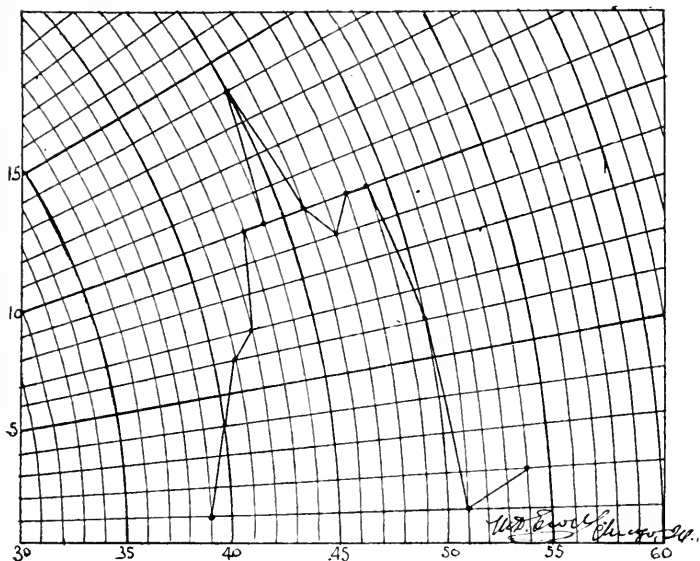
Figures No. I, II, and III, appear at pages 161, 162, and 163, respectively, of this JOURNAL.



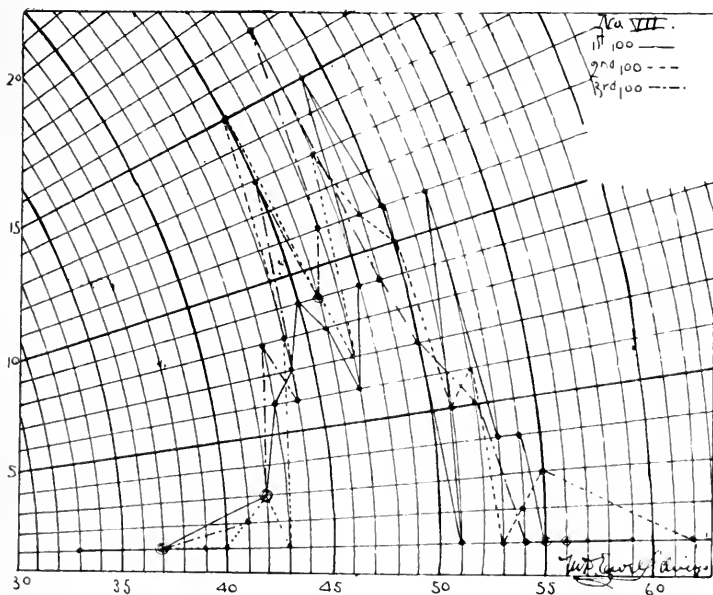
No. IV. Slides Nos. 2 and 15. 100 corpuscles from each of two rabbits. Zeiss 1-18; Jackson Micrometer; 1 div. = .1725 mikrons.  
1st 100. Largest corpuscle 8.63 mikrons. Smallest " 4.50 " Mean " 7.50 "  
2d 100. Largest corpuscle 8.38 mikrons. Smallest " 6.04 " Mean " 7.07 "



No. V. Slides Nos. 1 and 4a. Blood of boy 36 hours old. 100 corpuscles on each slide. Zeiss 1-18, etc.  
No. 1. Largest corpuscle = 11.32 mikrons. Smallest " = 5.76 " Mean " = 9.06 "  
No. 4a. Largest corpuscle = 11.39 mikrons. Smallest " = 5.70 " Mean " = 8.65 "

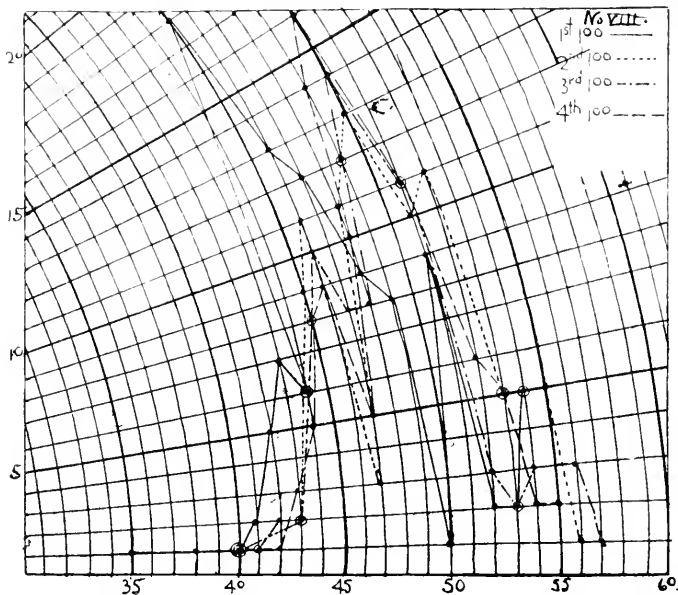


No. VI. 100 corpuscles of human blood from a healthy adult. Zeiss 1-18, etc.  
Slide No. 14. Largest=9.32 m.; smallest=6.73.; mean=7.85 m.



No. VII. Blood of two puppies two days old, 100 corpuscles from slide 6 and 200 from slide 9. Zeiss 1-18, etc., as above.  
Slides Nos. 6 and 9 1-2.  
1st 100, largest corpuscle=10.18 m.; smallest corpuscle=5.70 m.; mean size=8.30 m.  
2d 100, largest corpuscle=10.70 m.; smallest corpuscle=6.39 m.; mean size=8.23 m.  
3d 100, largest corpuscle=9.67 m.; smallest corpuscle=6.39 m.; mean size=8.13 m.  
Mean of the 300=8.22 m.

No. VIII. (On next page.) Blood of two puppies eight days old, 100 corpuscles from slide No 7 and 300 from slide No. 10. Zeiss 1-18, etc., as above.



Slides No. 7 and  
10 1-2-3.

Slide No. 7.

Largest=9.32 m.  
Smallest=6.04 m.  
Mean=8.14 m.

Slide No. 10.

1st 100.

Largest=9.67 m.  
Smallest=6.90 m.  
Mean=8.52 m.

2d 100.

Largest=9.84 m.  
Smallest=6.56 m.  
Mean=8.38 m.

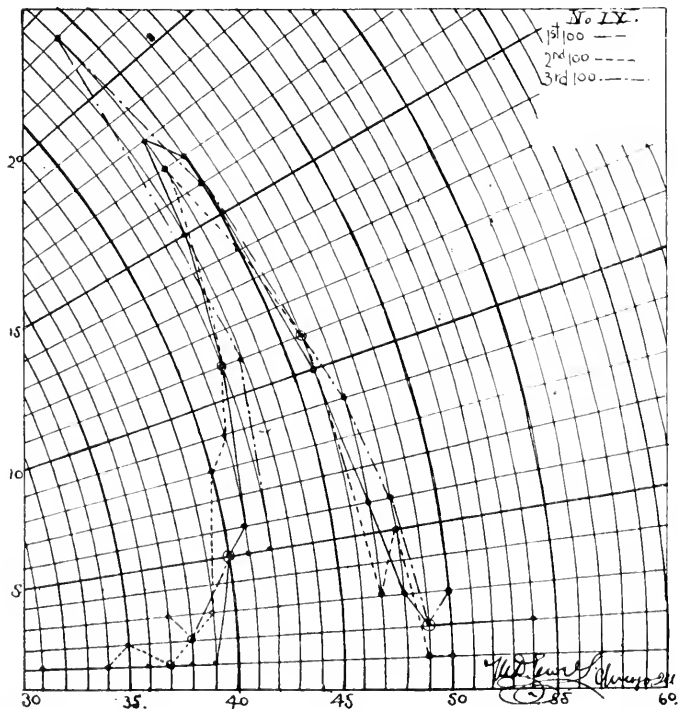
3d 100.

Largest=9.67 m.  
Smallest=6.90 m.  
Mean=8.38 m.

Mean of the  
400=8.36 m.

Mean of the 300 on  
Slide 10=8.43 m.

No. IX. Blood of puppy eight weeks old, 300 corpuscles from the same slide. Zeiss 1-18, etc., as above.



Slide No. 11 1-2-3.

1st 100.

Largest=9.32 m.  
Smallest=5.35 m.  
Mean=7.54 m.

2d 100.

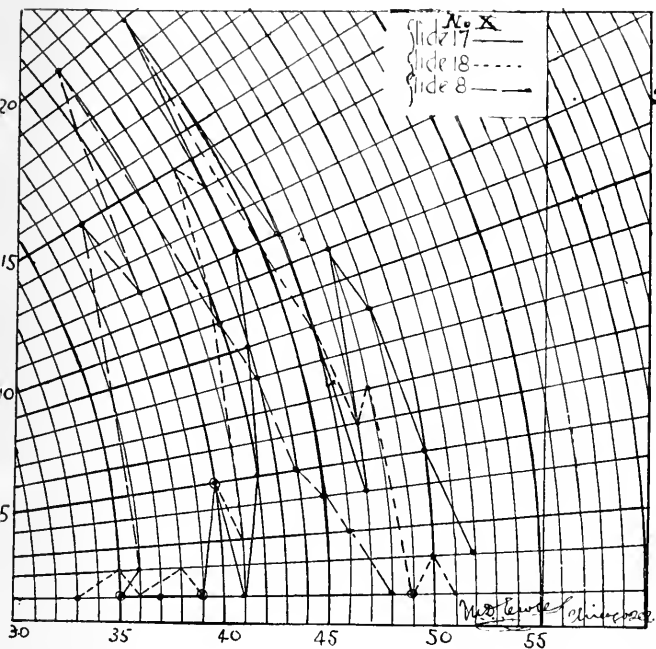
Largest=8.63 m.  
Smallest=5.87 m.  
Mean=7.45 m.

3d 100.

Largest=8.63 m.  
Smallest=6.39 m.  
Mean=7.64 m.

Mean of the  
300 7.54 m.





Slides Nos. 17 and 18.

Slide No. 17.

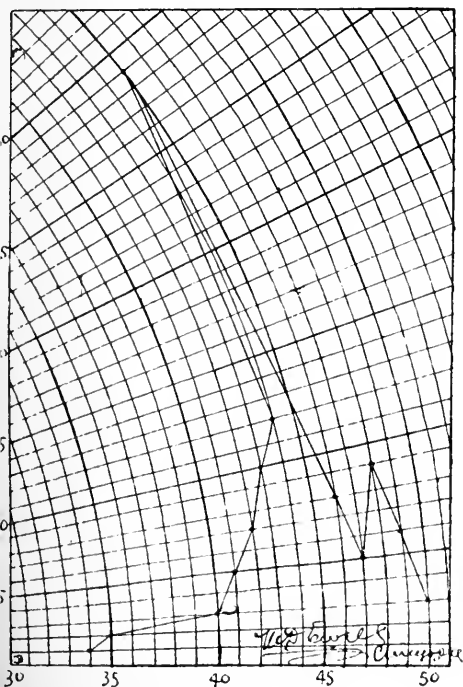
Largest=3.93 m.  
Smallest=6.04 m.  
Mean=7.81 m.

Slide No. 18.

Largest=8.80 m.  
Smallest=5.70 m.  
Mean=7.58 m.

Slide No. 8. Blood of puppy forty days old.  
Zeiss 1-18, etc.

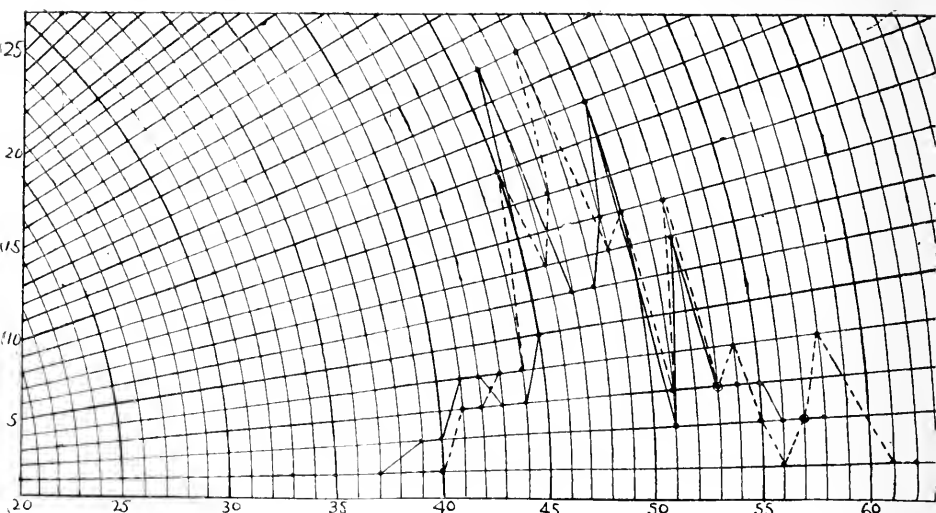
Largest=8.45 m.  
Smallest=6.04 m.  
Mean=7.04 m.



No XI. 100 corpuscles from menstrual blood.  
Zeiss 1-18, etc.

Slide No. 16.

Largest corpuscle=3.80 m.  
Smallest corpuscle=5.76 m.  
Mean size=7.71 m.

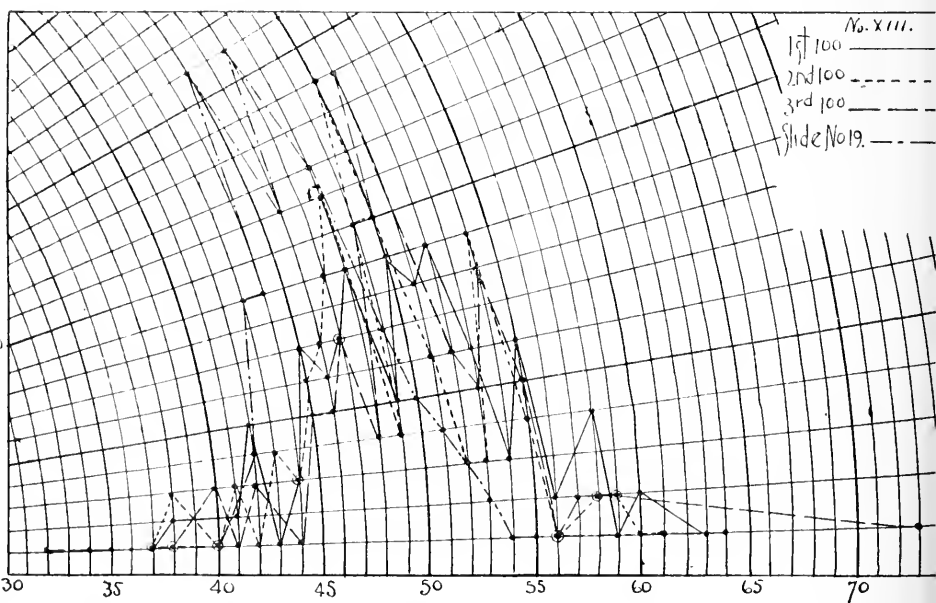


No. XII. 200 corpuscles from two sides of purpura haemorrhagica. Zeiss 1-18, etc.

Slides Nos. 21 and 23.

Slide No. 21. Largest corpuscle=10.87 m.; smallest corpuscle=5.70 m.; mean size=8.28 m.

Slide No. 23. Largest corpuscle=10.70 m.; smallest corpuscle=3.45 m.; mean size=8.25 m.



No. XIII. 400 corpuscles from two cases of pseudo-leucocythaemia. Zeiss 1-18, etc.

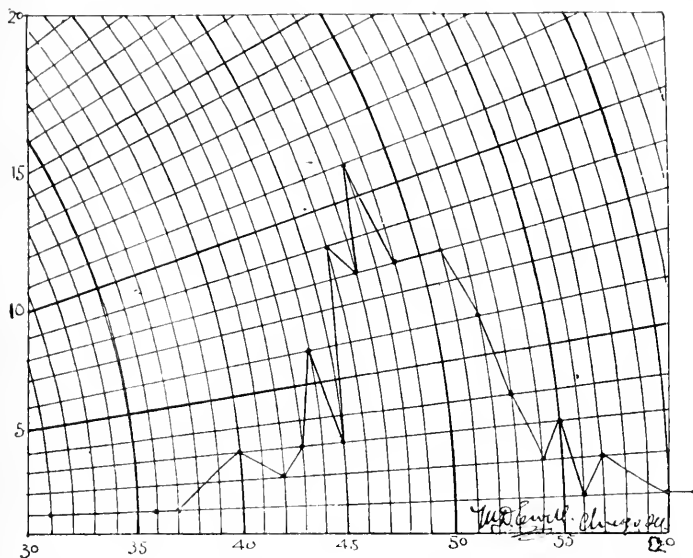
Slides Nos. 12 1-2-3 and 19.

Slide No. 12. 1st 100, largest=10.87 m.; smallest=5.87 m.; mean=8.50 m.

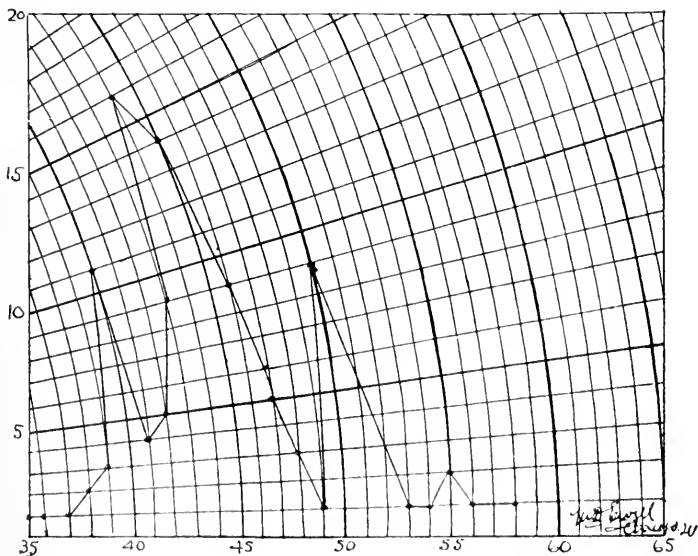
2d 100, largest=10.52 m.; smallest=6.22 m.; mean=8.42 m.

3d 100, largest=12.60 m.; smallest=5.52 m.; mean=8.55 m.

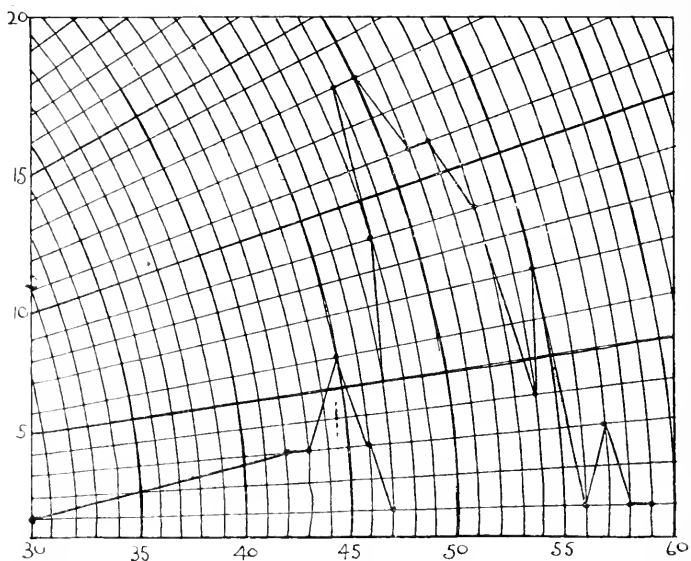
Slide No 19. Largest=11.04 m.; smallest=6.56 m.; mean=8.04 m.



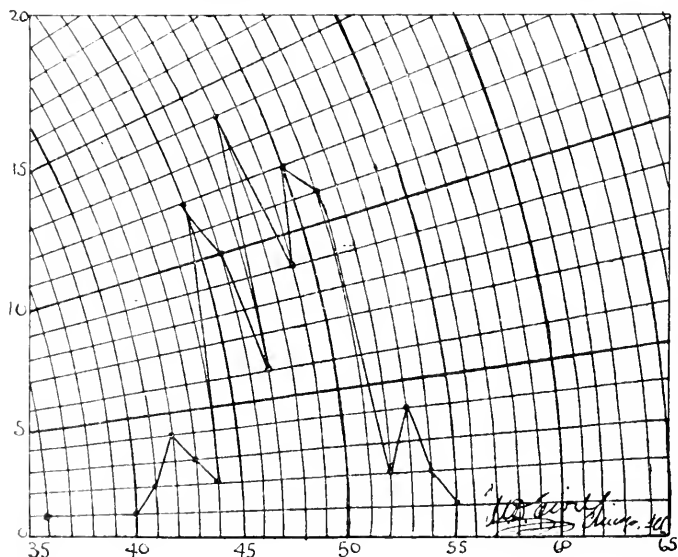
No. XIV. 100 corpuscles from F. S., Cook County Hospital. Pulmonary and intestinal tuberculosis; emaciation and anemia marked. Zeiss 1-18. Jackson micrometer, 1 div.=0.1725 m. Slide No. 3. Largest=10.70 m.; smallest=5.35 m.; mean=8.35 m.



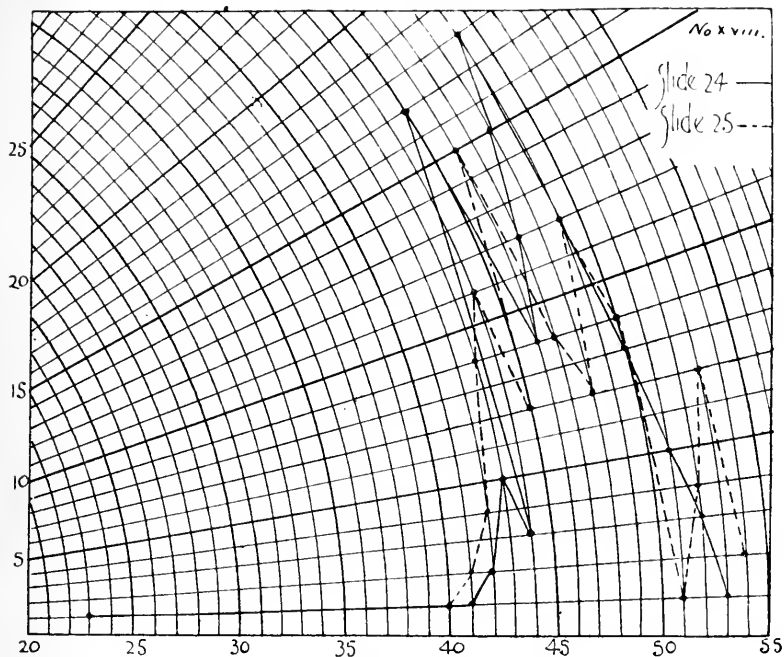
No. XV. 100 corpuscles from P. R., Cook County Hospital. Diagnosis uncertain, probably pernicious anemia; emaciation marked. Zeiss 1-18, etc., as above. Slide No. 5. Largest=9.93 m.; smallest=6.04 m.; mean=7.69 m.



No. XVI. 100 corpuscles from A. K., Cook County Hospital. Plumbism; emaciation not marked; anæmic. Zeiss 1-18, etc., as before.  
Slide No. 20. Largest=10.10 m.; smallest=5.18 m.; mean=8.65 m.



No. XVII. Blood of P. K., Cook County Hospital, 100 corpuscles. Diagnosis uncertain, probably gastritis; marked emaciation. Zeiss 1-18, etc.; Jackson micrometer, etc., as before.  
Slide No. 4. Largest=10.18 m.; smallest=6.22; mean=8.32 m.

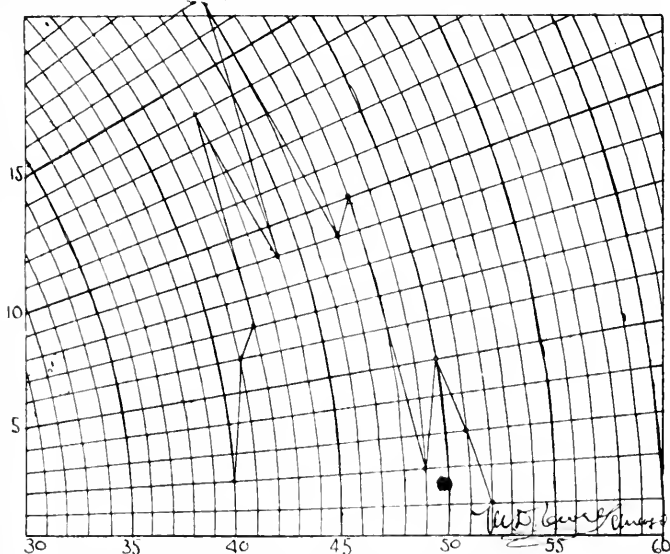


No. XVIII. 100 corpuscles from each of two cases of syphilis. Zeiss 1-18, etc.

Slides Nos. 24 and 25.

Slide No. 24. Largest corpuscle=9.15 m.; smallest corpuscle=3.97 m.; mean size=8.11 m.

Slide No. 25. Largest corpuscle=9.32 m.; smallest corpuscle=6.90 m.; mean size=8.11 m.



No. XIX. 100 corpuscles from a case of erysipelas. Zeiss 1-18, etc.

Slide No. 22. Largest corpuscle=9.15 m.; smallest corpuscle=6.90 m.; mean size=7.83 m.

## DESCRIPTION OF THE DIAGRAMS AND CONCLUSIONS DERIVED THEREFROM.

The preceding diagrams were first drawn in rectangular co-ordinates, thinking that perhaps, when platted, the results might be in the form of some characteristic curve that might aid in the identification of blood. How signally this anticipation has failed is apparent on the most superficial examination. As printed, the horizontal divisions, unless otherwise noted, represent each one division of the eye-piece micrometer. The vertical divisions represent the number of corpuscles, each division, unless otherwise noted, representing one corpuscle. The point of origin at the left is, for want of space, not shown on the diagrams. The curved lines, representing the number of corpuscles are drawn with the point of origin as their common center and with radii equaling the number of divisions of the micrometer subtended by them respectively. The curves, therefore, represent, on a large scale, the relative sizes of the corpuscles.

Figures I., II., and III. contain the results of the measurement of 650 corpuscles from the writer of this article, then being in good health.

Figure IV. (slides 2 and 15) represents the results of the measurement of 200 corpuscles from two rabbits, both of which had been inoculated with rabies. The one whose corpuscles were measured on slide No. 2 was apparently in good health, and had, as yet, shown no symptoms of any disease. No. 15, on the other hand, was very nearly dead, and did not appear to suffer any pain from the incision made to procure the blood. This rabbit was very anæmic, and his corpuscles very pale. It was inoculated August 28, 1889, and the blood drawn September 24, 1889.

Figure V. (slides 1 and 4a) represents the results of the measurement of corpuscles from a healthy male infant thirty-six hours old. Here note, not only the mean size, but the extremes between which the corpuscles vary.

Figure VI. represents the measurement of 100 corpuscles from the writer's esteemed friend, Dr. H. N. Moyer. It might have been predicted *a priori* that these corpuscles would be well-nourished and typical, and the diagram justifies the prediction. It will be observed that the mean of these 100 corpuscles (7.85 mikrons) is smaller than the mean of the 650 corpuscles of the writer (8.03 mikrons).

Figures VII. (slides 6 and 9), VIII. (slides 7 and 10), IX. (slide 11), and X. (slides 17, 18, and 8), represent a series of measurements of the corpuscles of several puppies (setters) of ages ranging from two days to seventy-six days. Especial attention is called, not only to the relative size of these corpuscles, but also to the extremes between which they vary.

Figure XI. (slide No. 16) represents the result obtained from the measurement of 100 red corpuscles obtained from menstrual blood. The corpuscles in this case appeared convex and not bi-concave. The principal peculiarity of this specimen is the comparatively few deviations from the average size.

Figure XII. (slides 21 and 23) represents a case of purpura hæmor-

rhagica, accompanied by anæmia, supposed to be pernicious. In both slides many of the corpuscles were deformed, and in the second many were crenated. In slide No. 21 there were numerous cases where they were confluent; there were also in this slide some very large deformed corpuscles. No corpuscles, however, were measured unless they were circular. In slide No. 23 there were numerous corpuscles that appeared nucleated. This appearance, however, was probably not due to real nuclei, but to a distinct and definitely limited concentration of hæmoglobin in the center. The same appearance was also noticed in some of the slides to be hereinafter described. Its cause is unknown to the writer.

Figure XIII. (slides 12 and 19) represents two cases of pseudo-leucocythæmia. Slide No. 12 was from a girl six years old, in whom the disease was well-advanced and quite unmistakable. The corpuscles on this slide were well defined, but very pale. In slide No. 19, a young man about 20 years of age, the disease was not so well marked. The corpuscles in this case were in many instances deformed, and all were so pale as to be difficult to measure. They appeared in both slides to be flattened and not of normal consistency.

Figure XIV. (slide No. 3) was a case of pulmonary and intestinal tuberculosis, in which the emaciation and anæmia were marked.

Figure XV. (slide No. 5) was the case of a man 50 years old, who had been ill ten or eleven months. The diagnosis was regarded uncertain, but supposed to be pernicious anæmia. The anæmia and emaciation were extreme, and the blood so impoverished that some difficulty was experienced in getting a good specimen, as very little exuded from the finger when pricked, though the return circulation was obstructed by a ligature. What did exude was of a light pink color and very thin. The corpuscles were very few in number, and so pale as to be measured with difficulty. The white corpuscles did not appear to be increased in number, either absolutely or relatively, so that the diagnosis of pernicious anæmia was probably correct.

Figure XVI. (slide No. 20) was a case of plumbism in a man aged 36. The patient was anæmic, but not markedly emaciated. Some of the corpuscles had in their centers highly refractive red spots, similar to those described above in the description of Figure XII. Many corpuscles were distorted, confluent, or broken up, and the circular ones were so pale, excepting the central spots above described as existing in some of them, as to be almost invisible.

Figure XVII. (slide No. 4) was the case of a man aged 27, of whose disease the diagnosis was uncertain, but probably gastritis. The emaciation was marked.

Figure XVIII. (slides 24 and 25) represents two cases of syphilis. In slide No. 25 the patient had a hard chancre of three months' duration, under irregular treatment. In slide No. 24 the disease of eighteen months' duration. In slide No. 24 there were a few of the corpuscles presenting the quasi nuclei above described.

Figure XIX. (slide No. 22) represents blood from a case of erysipelas.

In this case the corpuscles were well defined, with abundant hæmoglobin and formed in rouleaux in some parts of the slide.

With especial reference to the mean size of the various species of corpuscles comprised in the above described measurements, it is to be observed generally:

(1.) That previously recorded observations to the effect that the average size of the red corpuscles of very young animals is larger than that of older animals of the same species, are confirmed. Their size also appears to vary between wider limits. In the case of the puppies, while the mean size diminishes with age, the means differ sensibly among themselves.

(2.) If we considered only the majority of the above cases of patients suffering from wasting disease, accompanied by emaciation and anæmia, the statement might be hazarded that in such cases the mean size of the corpuscles is greatly increased above the assumed normal size; but the case of pernicious anæmia, in which the mean was only 7.69 mikrons, and the case of the rabbit inoculated with rabies (which was extremely anæmic), in which the mean was 7.07 mikrons, against 7.60 mikrons in the other rabbit, seem to negative this conclusion; so that finally we are forced to the conclusion that in the present state of our knowledge we cannot affirm that there is a constant mean size of the corpuscles of different animals of the same species, even in health, much less in disease. Further investigations may perhaps modify this conclusion.

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### SUMMARY.

The foregoing article may thus be summarized:

(1.) The only proposed method of identifying blood that are worthy of discussion are (*a*) Teichmann's process of obtaining hæmin crystals; (*b*) the Guaiacum test; (*c*) the Spectroscopic test; (*d*) the Microscopic identification of red blood-corpuscles; and (*e*) the Micrometric test. The last method only will be here discussed.

(2.) In the use of the micrometric test no confidence can be placed in the result, unless the errors of the micrometer used, with reference to some authentic standard, are known. Instruments used in this investigation described.

(3.) Where the subject continues during a *short* period in substantially the same condition of good health, there appears, in the hands of the same observer, to be an average size of the *fresh corpuscles*, provided at least 100 corpuscles are measured.



(4.) There are such large discrepancies between the averages obtained from the measurement of the *fresh* blood corpuscles of animals of the same species, and between measurements of the same objects by different observers, as to throw doubt upon published results. Several tables of measurements given to prove this statement.

(5.) There is no advantage in using very high powers in such investigations.

(6.) Drying of the blood corpuscles in a clot multiplies the difficulty of identification. It has never been proven that dried corpuscles can be restored to their normal proportions.

(7.) The mean size of the red corpuscles of very young animals is larger, and their size varies between wider limits, than in adults.

(8.) Many diseases alter the size of the red corpuscles; especially is this so in microcythæmia.

(9.) Fasting diminishes both the size and number of the red blood-corpuscles. So also in the case of various drugs.

(10.) In view of the foregoing it is impossible in the present state of science to say of a given specimen of blood, fresh or dry, more than that it is the blood of a mammal.

## THE CRIMINAL INSANE.\*

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BY J. T. GRAHAM, M. D., OF WYTHEVILLE, VA.

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While the drink problem is being thoroughly discussed by medico-legal authorities, both at home and abroad, the equally important subject—the disposal of the criminal insane—should not be entirely ignored. Any one who will give the subject a little thought is bound to acknowledge its importance as regards the safety of the public, and at the same time he will recognize the fact that the number of persons found by a trial before a jury to be insane is yearly increasing. The truth is that the insane criminals have multiplied so rapidly that the public mind has been forced to the conclusion that the “plea of insanity” is not always a just one, but that it is too often used only as a means of escaping punishment for some heinous crime, that crime usually being murder. This is clearly proven by the many attempts, and some of them successful, that have been made to lynch those who have escaped capital punishment by a verdict of insanity.

That men have committed murder during fits of mental aberration no one can truthfully deny, yet is it justice to the public that such men should escape all punishment? Suppose it be clearly proven, both by common and expert testimony, that a murderer was insane at the time he committed his crime, and even previous to that time he was thought to have an unbalanced mind, it certainly cannot be maintained that it is just to any one to let such a character

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\*Read before the Medico-Legal Society, March, 1892.

have his liberty. He should not be put on the same level as unoffending citizens, yet this is practically the very thing that is done. The law turns such a character over to some asylum that has been established for those unfortunate human beings that have been deprived of reason. He is confined in such an institution for a time, and the community from which he was sent breathe easier; but let us follow up the case and learn the result.

While the insane criminal is under the restraints of the asylum and away from his former associations, he is given healthful exercise, useful employment, and pleasing entertainment; and thereby the cloud that overhangs his melancholy mind is thinned. He soon becomes quiet and all of his maniacal tendencies disappear. He remains in this apparently sane condition for some time, showing no symptoms of insanity in any way. The restraints thrown around him and the diversion of his thoughts by pleasant amusements have acted on his diseased mind like an opiate acts on the pain of a diseased body, the symptoms in each case being destroyed, but the disease not cured. The faculty of the asylum feel that under the circumstances they are not compelled to keep such a patient any longer; and, yielding to the earnest pleadings of the man's family, whose affection has mastered their reason, the superintendent of the institution gives the criminal his discharge or lets him out on a furlough. In many cases the opiate is withdrawn too soon. The discharged criminal goes back to his family and friends and soon takes up his old habits and former way of living. The same causes must produce the same effects as before. The man becomes restless, irritable, and often under the influence of alcohol. Can any one believe that it is just to the public for such a character to be free? No man feels at ease with such an one. Who can tell when another insatiable desire for his brother's blood may originate within his

already diseased mind? No matter what crime he chooses to commit, the law cannot hold him responsible for it, for the law has already pronounced him insane. Nor is it justice to the criminal lunatic himself to allow him his liberty, because people who know his character will be more or less prepared to take his life in defense of their own upon the slightest provocation.

What a state of affairs is this? A man the law cannot punish because he is insane; a man the public stand in dread of, yet cannot have confined because he has committed no crime since his discharge from an asylum; a man the asylum is not compelled to keep because he manifests no symptoms of insanity while within its walls.

Capital punishment is, with a few notable exceptions, never prescribed for insane criminals; but yet the weight of public opinion is against allowing them absolute freedom. They should be confined, but where? Certainly not in State prisons, for the diseased mind is not treated in such institutions. Many object to having such characters placed in an asylum with other patients who have no criminal tendencies, and it does seem that the influence would be unwholesome for the latter, but if the criminal should escape punishment under the plea of insanity, he could receive no severer punishment than to be confined for a term of years with the insane.

Every physician is aware that a man may have a temporary derangement of the mental faculties while suffering with certain acute diseases, but in most every case the mental trouble disappears as the disease that produces it is cured. If a man should commit some crime while in a state of delirium, as I have seen attempted by patients who had typhoid fever, he ought not to be deprived of his rights as a citizen if his mind recovers from the effects of the disease as his body regains its former state of health. But if the plea

of insanity is ever used to save the neck of the guilty, and no one doubts that it is often so abused, there should be such confinement provided for such cases as would force men to see that such means of escaping punishment would not be so easy as at present. It makes little difference as regards the safety of the public whether such characters are sane or insane; they are dangerous, and the value of human life demands that they be confined.

The above description of the method by which the law deals with the criminal insane is no fancy picture sketched by the writer's imagination, but is true to life and can be verified by living examples. But not to dwell longer on the facts of the case, some remedy should be suggested to correct the evil as it now exists. It is hardly to be expected that a radical change would be made at once, but it is the opinion of many who have made a study of the subject that there should be no half-way measures adopted, but that persons who have committed murder and have been proven to be insane should be confined during the remainder of their lives. It is not probable that such a state of perfection could be reached at one step, and the following suggestion is made, which, if adopted, although much more conservative than the first, would be one step in the right direction, and would finally lead up to the ideal desired, viz.: Life-time confinement.

It is this: Suppose that all persons tried for murder and adjudged insane by a jury be placed in confinement for a certain term of years—say ten. If at the end of ten years a man so confined has shown no symptoms of insanity during the last five of said ten years, let him be discharged; but if he should give any evidence of a diseased mind during any one of the last five years of this term, let him be confined until five consecutive years have passed, during which period he will have shown no symptoms of insanity whatever, before

he is given his liberty. If the man be really insane and is not cured within ten years, of course there would be nothing to prevent further confinement; but if the criminal be sane, *ten years is a very short period of time to confine him for such a crime as murder.*

If such a law were enacted and enforced, it would very greatly diminish the number of criminals tried under the plea of insanity, and at the same time serve to satisfy the public that those who would make insanity an excuse for crime would not escape punishment so easily as at present. If such a law cannot be made, there should be some legislation on the subject in order that the evil, as it now stands, may be in some measure mitigated.

## TRANSACTIONS.

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### MEDICO-LEGAL SOCIETY—JUNE MEETING, 1892.

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June 8, 1892, Society met at Hotel Imperial at 8 p. m., the President, Judge H. M. Somerville, in the chair ; Clark Bell acting as Secretary.

The minutes of the May meeting were read and approved.

The following persons were, upon the recommendation of the executive committee, duly elected :

#### ACTIVE MEMBERS.

Henry A. Rogers, Jr., Esq., 237 Broadway, New York city. Proposed by Mr. Albert Bach.

Hon. Charles H. Ham, 534 Canal street, of Board of U. S. Customs. Proposed by Judge H. M. Somerville.

Judge Jas. G. Tigh, 377 Fulton street, Brooklyn ; Geo. F. Elliott, Esq., Garfield Building, Brooklyn, N. Y. Proposed by Judge Abram H. Dailey.

A. F. Egelston., Esq., Prosecuting Attorney of Hartford, Conn. ; O. J. Wilsey, M. D., Superintendent Long Island Home, Amityville, N. Y. Proposed by Dr. M. D. Field.

#### CORRESPONDING MEMBERS.

Proposed by Clark Bell, Esq. : Hon. Cassius M. Clay, Louisville, Ky. ; William Struthers, Esq., Philadelphia, Pa. ; John A. Haralson and James B. Head, Judges Supreme Court of Alabama.

A paper by A. Wood Renton, Esq., of London, entitled "An English Lunacy Case of First Impression," was read by the Secretary.

A paper by Wm. Struthers, Esq., of Philadelphia, entitled "The Seat of Language and Lingual Diseases," was read for the author by Dr. W. S. Fleming.

The discussion of Mr. Albert Bach's paper, "Privileged Communications of Physicians," was had, and was participated in by Clark Bell, Esq., Judge H. M. Somerville, Dr. Wm. L. Bauer, Dr. E. Webster Davis, and Mr. Albert Bach.

The Secretary announced that the following delegates to the International Congress of Criminal Anthropology of Brussels had been appointed: Mr. Clark Bell, Mrs. M. Louise Thomas, Mr. C. K. Wilde, Mr. Jefferson M. Levy, Mr. Benno Loewey.

Mr. Clark Bell, in announcing the death of Dr. Pliny Earle, made an address eulogistic of the life and career of this venerable leader of American Alienists. Mr. Bell also paid a tribute to the life and career of Prof. Dr. Von Steenberg, of Copenhagen, also a corresponding member of the Medico-Legal Society, and Vice-President of the International Medico-Legal Congress of 1893.

The same speaker also announced the sudden death of Prof. Henry F. Formad, of Philadelphia, an honored active member of the Society, and spoke of the life, services, and career of Prof. Formad, and of his labors in the investigation of science, and expressed the profound regret the members of the Society felt at its great loss in the death of this gifted and remarkable man.

The Society adjourned.

H. M. SOMERVILLE,

*President.*

CLARK BELL.

*Secretary.*



## EDITORIAL.

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### CRIMINAL RESPONSIBILITY OF THE INSANE HOMICIDE.

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A wide divergence of opinion exists in the American States as to the legal effect of the answers of the English judges to the questions propounded by the House of Lords in the excitement growing out of the McNaghten Case in 1843.

1. It must be conceded that these judicial responses were the mere expressions of the individual opinions of the judges, and not decisions by a court of competent jurisdiction pronounced in a case before them ; in other words, that they are mere *obiter dicta*, and of no binding effect upon any court in England or elsewhere. Sir James Fitz James Stephen has well said concerning them : " That they were mere answers to questions which the judges were probably under no obligation to answer, and to which the House of Lords had probably no right to require an answer, as they did not arise out of any matter judicially before the house : " Stephen's Hist. Crim. Law of England, vol. 2, p. 154.

2. While these answers have been by common usage usually followed by the English trial judges, it is a significant fact that they have not received the approval of the High Court for Crown Cases reserved.

3. The conviction of insane homicides in such cases as those of Goldstone and Cole in England, and of similar cases in some of the American States, when judges have followed the *dicta* of the judges, upon what has been commonly

known as the *Right and Wrong Test*, has led to a strong revulsion of feeling against that doctrine, both in England and in the American States. The medical profession of England instantly protested against the answers of the English judges, by the resolutions adopted July 11, 1844, at the session of the British Association of Medical Superintendents, which was the year after the answers of the English judges were made. In some of the American States the *dicta* of the English judges were followed, notably New York, Pennsylvania, Massachusetts, Michigan, Alabama, Ohio, and other States. Writers and jurists denounced the "Right and Wrong Test" on both sides the Atlantic: Brown's Med. Juris., §§ 18 *et seq.*; Wharton & Stille, § 59; Bishop Crim. Law, 7th ed., §§ 386 *et seq.*; Wharton's Crim. Law, §§ 33 *et seq.*; Ordonaux on Insanity, 419; Ray Med. Juris., 16-19; Bucknell & Tuke, p. 269; Bell, Med. Leg. Jour., vol. 2, p. 339; the same, Med. Leg. Jour., vol. 7, p. 88.

In August, 1833, an act of Parliament was passed in England declaring that if the homicide was insane at the time he committed the act a special verdict should be found by the jury.

5. In the American courts the soundness of the doctrine of the *dicta* of the English judges has been severely criticised, and overruled, if an *obiter dictum* of a court can ever properly be regarded as overruled. The most notable case was that of *State v. Pike*, in which Chief Justice Doe, of the Supreme Court of New Hampshire, wrote the masterly opinion of the whole bench, repudiating the doctrine contained in the answers of the English judges: 49 N. Hamp., p. 399; 50 N. H., p. 369. Similar decisions followed in the Supreme Courts of Kentucky (*Kried v. Com.*, 5 Bush. (Ky.), 362; *Smith v. Com.*, 1 Duv. (Ky.), 224); in Virginia (*Dejarnette v. Com.*, 75 Va., 576); in Mississippi (*Cunningham v. State*, 56 Miss., 269); in Connecticut (*State v. Johnson*, 40 Conn., 136;

*Anderson v. State*, 43 Conn., 514); in Iowa (*State v. McWhorter*, 46 Iowa, 88; *State v. Fettes*, 35 Iowa, 68); in Illinois (*Hopp v. People*, 31 Ill., 385); in Indiana (*Bradly v. State*, 31 Ind., 492); in Texas (*Harris v. State*, 18 Texas Ct. of App., 87); in Pennsylvania (*Coyle v. Com.*, 100 Pa., 573); in Georgia (*Roberts v. State*, 3 Ga., 310); in Massachusetts (*Com. v. Rogers*, 7 Mete., 500); in the District of Columbia, *People v. Daly* (reported in Med. Leg. Journal, vol. 7, Sept. No.) and more recently in the notable case of *Parsons v. State*, where Somerville, Justice, wrote the opinion of the bench of the Supreme Court of Alabama, a masterly and exhaustive treatise upon the whole subject, distinctly overruling the doctrine as answered by the English judges (which is, as was Chief Justice Doe in the New Hampshire cases, a leading case, and is reported in full in the September No. of vol. 7 of Medico-Legal Journal). Mr. Justice Stone wrote a dissenting opinion as to certain propositions, but not upon the main question, and upon the "right and wrong" theory he did not dissent.

6. The acquittal of Hadfield in England, defended by Erskine, was within the doctrine, as stated in *State v. Pike*, in New Hampshire, and *Parsons v. State*, in Alabama. Lord Kenyon, one of the ablest of the English judges, acted and decided correctly, under the law of England, when he stopped the case before the witnesses for the defense were all sworn, and directed the acquittal, as matter of law, on the substantial doctrine of the decision as laid down in the Alabama case. In the case of *McNaghten*, the eminent judge who tried that case, correctly applied the law of England as it then existed and had been administered, in directing an acquittal, on the assent of one of the ablest law officers of the crown, Sir William Follett, who admitted, upon the appeal of Judge Tyndale, that he must submit to a verdict of acquittal on the ground of the defendant's insanity:

(Serjeant Ballantyne, vol. 1, p. 246.) McNaghten was defended by Mr. Cockburn, afterward the Lord Chief Justice. McNaghten did not even know Sir Robert Peel, nor Mr. Drummond, and he was, beyond all question, laboring under an insane delusion which dominated his action. His acquittal was correct under the law of England, but he would have been convicted under the recent *dicta* of English judges. It is doubtless true that the excitement of that era, which led to the extraordinary inquiry, may have largely influenced the English judges in framing their answers.

7. It may be claimed that the answers of the English judges did not correctly state the law of England, as it had before that time been administered in this respect, and notably in the case of Hadfield and McNaghten, the answers set up a new legal test or criterion, which upon trial has been found to be against the teachings of science and repugnant to and in conflict with the civilization of our age.

8. The action of the English Home Secretary and the law officers of the crown in recent cases, indicates a great change in English judicial views, and the course now taken in England of having a full and impartial inquisition in every case of suspected insanity, with competent experts, conducted by the government officials before the main trial, makes it extremely improbable that any insane homicide will be likely to be either convicted or executed in Great Britain in the near future.

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### NON COMPOS MENTIS.

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The words "*non compos mentis*" have received judicial interpretation. The doctrine of Lord Coke, "*total deprivation of sense*," is not now recognized by the courts, either in England or America, as correct in regard to what constitutes "*non compos mentis*:" Carew v. Johnston, 2 Sch. & Lef.,

280; *Browning v. Reane*, 2 Phil., 69; *Dew v. Clark*, 3 Add. Ecc. 79, 87; Lord Tenterden in House of Lords in *Mannin v. Ball*, Smith & Batty, 183; Buswell on Insanity, § 5, § 6; *Commonwealth v. Schneider*, 59 Pa. St., 328; *Commonwealth v. Haskell*, 2 Brews., 491; although there has been a conflict of American decisions, the weight of American authority sustains the English doctrine laid down in *Mannin v. Ball*, before cited: *Hale v. Hill*, 8 Conn., 39; *Dennett v. Dennett*, 44 N. H., 531; *Carmichael in re*, 36 Ala., 514; *Hovey v. Chase*, 52 Maine, 304; *Blanchard v. Nestle*, 3 Denio, 47; *Stanton v. Wetherwax*, 16 Barb. (N. Y.), 259.

In New York, Massachusetts, and several of the American States, statutes have been passed defining the terms "insane person," "lunatic," "*non compos*," and "insane," so as to embrace all forms of insanity except "idiocy." In many of the American States the statute law has made the words "lunatic," "insane," and "*non compos mentis*" synonymous and convertible terms, and provided that these embrace all recognized forms or phases of insanity, so that at law it may be said that he is "insane," "a lunatic," or "*non compos mentis*," whose mind is affected by general fatuity or is subject to one or more specific delusions: Bushnell on Insanity, § 18. (*Ib.*, p. 727.)

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## MORAL INSANITY IN THE COURTS.

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[From Advance sheets of Amer. Edition of "Taylor's Medical Jurisprudence," by Lea Bros. & Co., of Phila.—p. 784.]

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There has been a conflict of opinions and decisions of the courts as to moral insanity. Some confusion has arisen as to what constitutes and what has been recognized by the courts as moral insanity. Mere beliefs, opinions, or prejudices, unless involving some insane delusion, do not consti-

tute moral insanity. Opinions as to the *moral quality* of acts, unaccompanied by delusions which subvert the will and reason and dominate the conduct, do not constitute moral insanity. Moral perversity is not moral insanity. Moral insanity, as recognized by the courts, involves either a disorder of the brain, which affects the moral faculties, or produces an inability to discriminate between right and wrong, which has, as a disease of the brain, proceeded so far as to destroy the reasoning faculties of the mind and impair or destroy the volition. This has had judicial recognition in American courts: *Com. v. Moster* (GIBSON, C. J.), 4 Pa. St., 266; *Forman's Will*, 54 Bar., 274; *Boswell v. The State of Alabama*, 63 Ala., 307; *Wharton Hom.*, § 584; *St. Louis Mut. Life Ins. Co. v. Graus*, 6 Bush., 268; *Anderson v. The State*, 43 Conn., 515; *Buswell on Insanity*, § 12; *Ray's Contributions to Mental Pathology*, 115; *per contra State v. Spencer*, 1 Zab., 196. (Ib., p. 726.)

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### LEGITIMACY.

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The law upon the subject of Legitimacy may be stated thus:—

Legitimacy is the state of being born in wedlock—that is, in a lawful manner, or in accordance with law; *Bouvier's Law Dictionary*, tit. 2, p. 67; *Anderson's Law Dictionary*, 611; *Campbell's Case*, 2 Bland Ch. (Md.), 36.

An illegitimate child is one born out of wedlock, or not within competent time after termination of coverture; or if born out of wedlock, whose parents do not afterwards intermarry and the father acknowledge it, or who is born in wedlock where procreation by the husband is impossible: *Smith v. Perry*, 80 Va., 563.

By the common law the subsequent marriage of parents does not legitimize children born out of wedlock before marriage, but in many of the American States the subsequent marriage of parents works by statute the legitimacy of the child, notably Arkansas, Georgia, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Pennsylvania, New Hampshire, Texas, and Virginia. A child born after marriage, no matter how soon, is born in wedlock, and presumed to be legitimate, and all children born in wedlock are presumed in law to be legitimate: Bouvier's Institutes, 322; *State v. Romaine*, 88 Iowa, 48; *Rhine v. Hoffman*, 6 Jones Eq., 335; 1 Rolle Abr., 358; 2 Bac. Abr., 84; *Rex v. Reading*, Lee Temp. Hardw., 83; *King v. Luffe*, 8 East., 193, Lord Ellenborough, Justice, sustained by authorities in many American States: *State v. Herman*, 13 Ired. (N. Car.), 502; *State v. Romaine*, 58 Iowa, 46.

Where the mother has lived and cohabited with the father, and has been recognized by him as his wife and the child as his offspring, in the absence of any proof to the contrary, even though there be no evidence of a legal marriage, the law presumes the issue to be legitimate: Taylor on Evidence, Text-Book Series, § 649; *Hargrave v. Hargrave*, 2 C. & Kir., 701; *Shotle v. Magervan*, 2 Bush. (Ky.), 627.

These presumptions may, however, be rebutted, on showing:—

1. That the husband was impotent or incompetent, by Lord Ellenborough, Justice, in *King v. Luffe*, 8 East., 207; *Head v. Head*, 1 Sim. & Stu., 150; *Cross v. Cross*, 3 Paige Chan. (N. Y.), 139; 23 Am. Dec., 778.

2. Positive absence of the husband during the period in which the child must, in the course of nature, have been begotten, or his death, or non-access: *King v. Luffe*, *supra*; *R. v. Allerton*, 1 Ld. Raymond, 395; Banbury Peerage, answer to 7th question, 1 Sim. & Stu., 157; *State v. Britt*, 78 N.

Car., 439; *Cope v. Cope*, Alderson B, 1 En. & Rob., 275; *Benny v. Philpot*, 2 Myl. & K., 349; *Com. v. Strieker*, 1 Browne (Pa.) Appx., 47; *Wilson, v. Babb.*, 18 S. Car. 59; *Hargrave v. Hargrave*, 9 Beav., 255.

By common law, if the husband was within the four seas at any time during the pregnancy of the wife, the presumption was conclusive that the issue was legitimate: *R. v. Murray*, 1 Salk., 122; *R. v. Allerton*, 1 Ld. Raymond, 122.

While the ancient policy of the English common law remains unchanged, the courts have in modern times taken evidence, which, if absolutely conclusive of non-access and free from all doubt, modified the old rule: *Head v. Head*, 1 Sim & Stu., 160; Am. and Eng. Encyclopædia of Law, note under Legitimacy, p. 225.

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### INSANE DELUSIONS.

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It may be said that both the English and the American courts, by a long line of decisions, have established the rule of law to be that, the presence or absence of delusion in the mind of the subject was the true criterion of the presence or absence of insanity in any case: *Dew v. Clark.*, 3 Add. Ecc., 79; *Wheeler v. Anderson*, 3 Hagg Ecc., 574; *McElroy's Case*, 6 W. & S., 451; *Am. Seaman's Fund. Soc. v. Hopper*, 33 N. Y., 619; *Duffield v. Morris*, 2 Harr., 375; *Sutton v. Sadler*, 5 Harr., 459; *Frere v. Peacock*, 1 Rob. Ecc., 442; *Stanton v. Wetherwax*, 16 Barb., 259; *Mullin v. Cottrell*, 41 Miss., 291; *Buswell on Insanity*, § 14; *Forman's Will*, 54 Bar., 274.

The courts have made exceptions to this general rule, where "delusion" is not the criterion: 1. Insanity congenital "*ex nativitate*." 2. Cases where the mind has become enfeebled, weakened, or disorganized, due to disease, or to the gradual development of senile dementia. The law now



recognizes insanity as existing in certain cases without delusions : *Nichols v. Binns*, 1 Sw. & Tr., 239; *Am. Seam. Fund v. Hopper*, 33 N. Y., 619; *Regina v. Shaw*, L. R. 1 C. C., 145; *Buswell on Insanity*, § 16. (Ib., p. 728.)

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### MONOMANIA.—THE TERM SHOULD NOT BE EMPLOYED.

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The use of the term *monomania* is misleading and improper. That term among judges, lawyers, and lexicographers has been understood to mean derangement concerning a single faculty of the mind, or with regard to a particular subject only, as defined by Webster. This has had judicial construction in the courts. Legally, *monomania* has been held to exist where the mind is deranged upon one subject, the insanity relating to one delusion, and retaining the other intellectual powers. It excuses only when this delusion leads to an insane impulse, which controls the will and judgment, obliterates the understanding of right and wrong, and results in the commission of an act which the accused was unable to resist, or to refrain from, and yielded to its domination : *Stevens v. State*, 31 Ind., 485; *State v. Johnson*, 40 Conn., 136; *Com. v. Rogers*, 47 Mass. (7 Mete.), 500; s. c. 1 Lead. C. C., 94; *Brailly v. State*, 31 Ind., 492; *Com. v. Haskell*, 2 Brewster (Pa.), 401; *Com. v. Frith*, 5 Clark (Pa. L.J.), 455; *Life Ins. Co. v. Teny*, 21 U. S. (15 Wall.), 580; on 21 L. Ed., 326; *United States v. Hewson*, 7 Bost. L. R., 361; *Span. v. State*, 47 Ga., 553; *Roberts v. State*, 3 Ga., 310; *Hopps v. People*, 31 Me., 385; *State v. Felter*, 25 Iowa, 67; *Wesley v. State*, 37 Miss., 327; *Scott v. Commonwealth*, 4 Met. (Ky.), 227; and as to responsibility : *Com. v. Mosier*, 4 Pa. St., 264; *State v. Huling*, 21 Mo., 464; *Royce v. Smith*, 9 Gratt. (Va.), 704; *Rex v. Offord*, 5 Carr. & P., 168; *Willis v.*

People, 5 Park. Crim. R. (N. Y.), 621; Reg. v. Burton, 3 Fost. & F., 772; Rex. v. Townley, 3 Fost. & F., 839.

Among medical men and authors the term *monomania* means quite another thing, as was intended by Esquirol, its author, and so understood by all modern American, French, German, and Italian scientists and writers. Its use is, therefore, misleading, and it is now generally abandoned by the better medical authorities for that reason: Vid. Article *Monomania*, 2 Bell's Medico-Legal Studies, p. 101. Maudsley, Pliny, Earl, and many writers and observers deny the existence of an insanity limited to one subject, leaving the brain normal and healthy on all other subjects. For these reasons the term *monomania* should not be longer employed by medico-legal writers or in text-books. (Ib., 729.)

NOTE.—Although courts have held that insanity may exist where there is only one specific delusion, and the manifestations are limited to that one subject, with the mind clear and unimpaired on all other subjects, based upon the opinions of medical men and popular belief, alienists of the highest attainments and largest experience deny such a condition, and they are undoubtedly correct. If the brain is diseased to such an extent as to produce a state of insanity in any respect, it is difficult to conclude that the subject is sane in all other respects. (Ib., 734.)

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## KING LEOPOLD II. OF BELGIUM.

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The King of the Belgians is the foremost monarch in the world in the cause of the advancement of science and of intellectual progress.

Upon the throne of one of the smallest countries, he has the largest heart, the greatest interest, and the readiest hand to aid scientific endeavor and human intellectual advancement of any crowned head now living.

His influence upon the development of the knowledge of the world as to the dark portions of Africa perhaps illustrates, as well as any other incident in his useful and honorable life, the characteristics that have redounded so largely

to the honor of his country, and which are largely due to his strong individuality in lines outside his kingly duties.

In the recent International Congress of Criminal Anthropology, held at the Belgian capital, he not only lent the undertaking the substantial weight of the government, but he, on several occasions, attended the sessions and took a personal interest in the work of the Congress.

He granted an audience to the delegate of the Medico-Legal Society, Mrs. M. Louise Thomas, whom he treated with the greatest courtesy and consideration. The King spoke in the most complimentary terms of the American people to the American delegate, and in regard to the approaching Columbian Exposition, he said to her that "In great undertakings the Americans always do everything well."

An upright monarch, he has maintained the confidence and respect of both the political parties in his own country, and Belgium has been most fortunate that King Leopold has been upon her throne.

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### INCREASE OF CRIME.

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The press and the judiciary are calling attention to the fact that crime is on the increase.

The *London Times* claims that criminals have increased in Liverpool forty per cent. in the last three years, and that grave offenses have trebled in the same time, and alleges that similar complaints come from all countries.

The *Albany Law Journal*, in discussing the subject, quotes Judge Parker's statement of the U. S. Northern District Court of showing a similar state of things in portions of this country.

## THE AMERICAN INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1893.

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This Congress will be held in the month of August, 1893, and we hope in the city of Chicago, although the details have not yet been concluded.

We hope to make more definite announcements as to exact date and place of meeting in our next issue.

Prof. Marshall D. Ewell has been made chairman of the World's Congress Committee on Medical Jurisprudence, by the officers of the Auxilliary Committee of the World's Columbian Exposition, and that organization, of which Hon. Charles C. Bonney is President, has extended an invitation to the officers of the International Medico-Legal Congress to meet at the same time, May, 1893, under their auspices and promise of co-operation.

The time selected for that meeting, (May, 1893,) is thought, on full consultation, not to be opportune for a meeting of the Congress, and the invitation was, with great reluctance, declined with thanks. It would be difficult, if not impossible, to induce leading judges, lawyers, and jurists to go to Chicago in May, though medical members did not find the date as objectionable.

Numerous other scientific bodies, invited in the same manner, were obliged to decline for the same reason.

August is a vacation month, and will doubtless be selected. On Sept. 5th, the following letter was received from Chairman Charles G. Bonney:

THE WORLD'S CONGRESS AUXILIARY OF THE WORLD'S COLUMBIAN  
EXPOSITION.

WORLD'S CONGRESS HEADQUARTERS.

CHICAGO, U. S. A., Sept. 5, 1891.

HON. CLARK BELL,

President American International

Medico-Legal Congress, 57 Broadway, New York.

*My Dear Sir:*—Your letter from "Bell View Farm," Dundee, N. Y., was acknowledged on August 13th, and I then expected to be able to write

you further at an early day, but have had nothing new to communicate until to-day. An urgent application has just been made by Dr. Ewell, Chairman of the World's Congress Committee on a Congress of Medical Jurists, to postpone the meeting of that Congress from the last week in May to some convenient time in August. While it is a matter of great difficulty to make any such change, it is possible that the desired arrangement may be made. Before acting upon the application, however, I desire to know, as definitely as possible, the number of persons who will probably attend the proposed Congress; the number of general public meetings which will probably be required to set forth the popular aspects and interests involved; and the number of special meetings in the smaller rooms of the Art Palace which will probably be required for the consideration of the work of the various sections. Please send me such information as you can furnish on these points at your earliest convenience.

I thought it well to await your return to the city before complying with your request for duplicate publications of the Auxiliary. A package of the Preliminary Publication, and Preliminary Address in the Department of Medicine, with the list of the various Congresses to be held, will be sent to your address by mail.

Very truly yours, &c.,

CHARLES C. BONNEY,  
*President.*

It is unfortunate that the promised publications were not sent so that announcement could be made in current number of the JOURNAL. The leading facts will appear in our next, if not sent in response to our urgent request in time for this issue.

The following persons have enrolled in the Congress, and will contribute papers: W. Thornton Parker, M. D., late of Rhode Island, and now of Chicago; Dr. A. H. Simonton, of Cincinnati, Ohio; Dr. Paul Berrillon, of Paris, France; Dr. Van Persyn, of Holland; Nelson Voldeng, M. D., Independence, Iowa; W. B. Femling, M. D., of Indiana.

Members of the International Médico-Legal Congress of 1893 or others who intend to contribute papers to be read before that body, will please send their name and address, and, if possible, the title of the paper, to the editor of this journal.

The Vice-Presidents of the Congress for the various states and countries will please at once make reports to the Presidents of the Congress and give the names of delegates who

will attend or contribute papers, with the titles, of their papers, in order that the preliminary work of preparation may be completed by the committee, and arrangements made for reduced fares upon railways within the United States.

We hope to complete arrangements by which members or delegates to the Congress can obtain tickets at greatly reduced rates. For the foreign members or delegates, these can be made via the Falls of Niagara, if desired, within the United States. We hope to have the fares reduced to members to nearly half rates.

### THE INTERNATIONAL CONGRESS OF CRIMINAL ANTHROPOLOGY AT BRUSSELS, BELGIUM.

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This Congress was a great success. The Belgium Government took a direct interest in its success, and King Leopold lent his personal sympathy and presence at some of the sessions.

The delegates of the Medico-Legal Society were treated with great courtesy and distinction.

Mrs. M. Louise Thomas writes glowing accounts of the affair to the editor of this journal. She was granted a private audience by the King, at the request of the President, Dr. Semal, and treated with high distinction. She was also accredited with special powers to invite the co-operation of the assembled scientists to take part in the International Medico-Legal Congress of 1893.

Prof. Benedikt, of Vienna, Dr. Berrillon, of Paris, and several of the leading scientists of Belgium, Holland, Germany, and Scandinavia, announced their intention of visiting this country on the occasion, and attending that Congress.

The Belgian Congress has done a great work in advancing Criminal Anthropology.

THE WORLD'S CONGRESS AUXILIARY.

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A committee has been organized at Chicago, auxiliary and in aid of the World's Columbian Exposition, to conduct a series of World's Congresses, and has selected as its officers :

President, Charles C. Bonney; Vice-President, Thomas B. Bryan; Treasurer, Lyman J. Gage; Secretary, Benjamin Butterworth;

It has organized the following department, with a separate chairman for each : Agriculture, Art, Commerce and Finance, Education, Engineering, Government, Literature, Labor, Medicine, Moral and Social Reform, Music, Press, Religion, Science and Philosophy, Temperance, and General Department—sixteen in all.

Two of these departments—"Government" and "Medicine"—have no separate chairman, and the President, Mr. Charles C. Bonney, acts as Chairman of each.

In the Department of Medicine, six sub-committees have been named, each with a separate chairman, and the sixth one is on Medical Jurisprudence, of which Prof. Marshall D. Ewell is Chairman.

It is proposed by this sub-committee to arrange for a Congress of Medical Jurists, to be held at Chicago the last week in May, 1893. This sub-committee, wholly of Chicago medical men, except its Chairman and Hon. R. M. Wing, is composed as follows :

Marshall D. Ewell, M. D., LL. D., Chairman; Lester Curtis, M. D., Vice-Chairman; Harold N. Moyer, M. D., Henry M. Bannister, M. D., Hon. R. M. Wing, J. G. Kiernan, M. D., Antonio Lagorio, M. D., S. V. Clevinger, M. D., Ludwig Hektoen, M. D., G. F. Lydston, M. D.

The editor of this journal has been invited to read a paper at this Congress, and has accepted, and this journal will do all in its power to further the work of this sub-committee.

The Chairman has issued a circular recommending the discussion of the following subjects :

1. Medico-Legal Inspections, and as incidental thereto the office of Coroner.

2. Expert Testimony in Medico-Legal Cases and its Improvement.

3. Blood Stains, Fibres, etc., and their Identification.

4. Insanity, Inebriety, and Hypnotism, and their relation to the Administration of Justice, Civil and Criminal.

5. Malpractice, and actions therefor.

6. Toxicology, General and Special.

7. Cremation, and its Relation to the Law.

8. Judicial Executions.

9. The extent to which Legal Medicine should have a place in the Curricula of Schools of Law and Medicine, if at all.

NOTE.—As we go to press, Prof. Ewell writes the editor of this journal, that Chairman Bonney has written him that he thinks he can make arrangements to hold this Congress of Medical jurists in the week commencing August 14, 1893, which will probably be also selected by the International Medico-Legal Congress and other scientific bodies on germane subjects.

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## DRUNKENNESS AS A DEFENSE.

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The law as now settled in England and the American States may be stated as follows :

While drunkenness is not *per se* a defense upon a charge of crime, yet mental unsoundness, superinduced by excessive intoxication and continuing after it has subsided, may excuse ; or where the mind is destroyed by a long-continued habit of drunkenness ; or where the long-continued drunk-



eness has caused an habitual madness, which existed when the offence was committed, the victim would not be responsible. For if the reason be perverted or destroyed by a fixed disease, although brought on by his own vices, the law holds him not accountable :

*Rex v. Meakin*, 7 Car. & P., 297; *Reume's Case*, 1 Lewin, 76; *Reniger v. Fogassa*, Plow., 1; 1 Russ. on Crimes (9th ed.), 12; 1 Bishop Cr. L., (6th ed.) 406; 1 Wharton Cr. L., (8th ed.), sec. 48; *McDonald C. L. of Scot.*, 16; 1 Hale, 4; *Black. Com.*, 26; *Beasley v. State*, 50 Ala., 149; *Peo. v. Odill*, 1 Dak. Ter., 197; *Estes v. State*, 55 Ga., 30; *Baily v. State*, 26 Ind., 422; *Roberts v. People*, 10 Mich., 401; s. c. 19 Mete., 402; *State v. Humdley*, 46 Mo., 414; *State v. Thompson*, 12 Nev., 140; *Lanergan v. People*, 50 Barb. (N. Y.), 266; *Maconnehey v. State* 5 Ohio, 77; *Com. v. Green*, 1 Ashm. (Pa.), 289; *U. S. v. Forbes*, Crabbe (D. C.), 558; *Stuart v. State*, 57 Tenn., 178; *Carter v. State*, 12 Texas, 500; *Bell's Med. Jurisp. of Inebriety*, p. 10, and cases there cited.

The rule of law is well settled that evidence of intoxication is always admissable to explain the conduct and intent of the accused in cases of homicide, although the rule does not apply in lesser crimes, where the intent is not a necessary element to constitute a degree or phase of the crime :

*Bell's Med. Jur. of Inebriety*, p. 10, and cases there cited.

In cases where the law recognizes different degrees of a given crime, and provides that wilful and deliberate intention, malice, and premeditation must be actually proved to convict in the first degree, it is a proper subject of inquiry whether the accused was in a condition of mind to be capable of premeditation :

*Gray. J.*, in *Hopt v. People*, 104 U. S., 631; *Buswell on Insanity*, § 450; *Penn v. McFall*, Addison, 255; *Keenan v. Commonwealth*, 41 Pa., St. 55; *Jones v. Com.*, 75 Pa. St., 403; *State v. Johnson*, 40 Conn., 136; *Pirttle v. The State*, 9 Humph., 663; *Hale v. State*, 11 Humphrey, 154; *Smith v. Duval* (Ky.), 224; *Bosswell v. Com.*, 20 Gratt., 869; *Willis v. Com.*, 32 Gratt., 929; *People v. Belencia*, 21 Cal., 544; *People v. King*, 27 Cal., 507; *People v. Lewis*, 36 Cal., 531; *People v. Williams*, 43 Cal., 344; *Farrell v. State*, 43 Texas, 508; *Colbath v. State*, 2 Tex. App., 391; *State v. White*, 14 Kan., 538; *Schlacken v. State*, 9 Neb., 241; 104 U. S.

The reason of this rule of law rests upon the fact that intoxication is a circumstance to be weighed in connection with the other circumstances surrounding the commission of

the act in determining whether it was inspired by deliberate and malicious intent, and whether immediately before and at the time of his act the intoxication of the accused was so great as to render him incapable of forming a design or intent, which the jury must find from the facts in the case, without regard to opinions of others:

Buswell on Insanity, § 452; Marshall's Case, 1 Lew. Cr. Cas., 76; Thacher, J., in *Kelly v. State*, 3 S. & M. 518; *Armor v. State*, 63 Ala., 173; *People v. Belencia*, 21 Cal., 544.

And because, since he who voluntarily becomes intoxicated is subject to the same rules of law as the sober man, it follows: that where a provocation has been received which, if acted upon instantly, would mitigate the offence if committed by a sober man, the question in the case of a drunkenman sometimes is, whether such provocation was in fact acted upon, and evidence of intoxication may be considered in deciding that question:

Buswell on Insanity, § 423; *State v. McCants*, 1 Speer, 384.

The New York Penal Code defines precisely this question of responsibility in that State in such cases as follows: "§ 22. Intoxicated persons.—No act committed by a person while in a state of intoxication shall be deemed less criminal by reason of his having been in such condition. But whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute a particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive, or intent with which he committed the act."

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### DELIRIUM TREMENS.

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The rule of law is well established, both in England and in the American States, that insanity produced by *delirium tremens* is a good defence to a criminal charge. Even if in-

duced by intoxication, the victim is no more punishable for his acts than if the delirium had resulted from causes not under his control:

*Regina v. Davis*, 14 Cox C. C., 563; Bell on Med. Juris. of Inebriety, 9, and cases there cited; J. Crisp Poole, Med. Leg. Jour., vol. 8, p. 44; *U. S. v. McGlue*, 1 Curt. 1; Wharton's Crim. Law (8th ed.), sec. 48; *People v. Williams*, 43 Cal., 344; *U. S. v. Clarke*, 2 Cr. C. C., 158; *Lanergan v. People*, 50 Barb. (N. Y.), 266; s. c. 6 Parker Cr. R. (N. Y.), 209; *O'Brien v. People*, 48 (Barb.), 274; *State v. Dillahun*, 3 Harr. (Del.), 551; *State v. McGonigal*, 5 Harr. (Del.), 510; *Cluck v. State*, 40 Ind., 563; *Bradley v. State*, 26 Ind., 423; *O'Herrin v. State*, 14 Ind., 420; *Dawson v. State*, 16 Ind., 428; *Fisher v. State*, 64 Ind., 435; *Smith v. Com.*, 1 Duv. (Ky.), 224; *Roberts v. People*, 10 Mich., 401; *State v. Humdley*, 46 Mo., 414; *State v. Sewell*, 3 Jones (N. C.) L., 245; *Cornwell v. State*, Mart & Y. (Tenn.), 147; *Carter v. State*, 12 Tex., 500; *Boswell v. Com.*, 30 Gratt. (Va.), 860; *U. S. v. Drew*, 5 Mason C. C., 283.

## MEMORANDUM.

The rule of law governing memorandum may be stated as follows:

A memorandum is admitted in evidence only for the purpose of showing the existence of such facts or circumstances as it contains, and for no other purpose. And it is open to explanation to the same extent that it would be if the words had been spoken instead of being written.

A memorandum thus made in the usual course of business may be received in evidence, even though the witness is unable after its examination to state the particulars from recollection: *Russell v. Hudson River R. R. Co.*, 17 N. Y., 134; *Halsey v. Lursebaugh*, 15 N. Y., 485; *Guy v. Mead*, 22 N. Y., 462; *Howard v. McDonough*, 77 N. Y., 592; *Mayor of N. Y. v. 2d Av. R. R.*, 102 N. Y., 572.

But the witness must be able to state that he once knew the facts contained in the memorandum to be true; that he made it at or shortly after the time they transpired, which he then intended to make correctly and that he believes it

to be correct, and he must also be able to verify the handwriting as his own, and the facts stated must be facts of his own knowledge and not on information derived from others: Haven v. Wendell, 11 N. H., 112; Sherr v. Wiley, 18 Pick., 558; Trinth v. Johns, 3 Gray (Mass.), 517; Crillueten v. Rogers, 8 Gray, 452; Stickney v. Bronson, 5 Minn., 215; Marely v. Schultz, 29 N. Y., 346; Nicoll v. Webb, 8 Wheaton (U. S.), 326; Ocean Nat. Bk. v. Caryle, 9 Hun (N. Y.), 239.

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### TENANCY BY THE CURTESY.

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Tenancy by the curtesy, legally defined, is an estate for life created by the act of the law. When a man marries a women seized at any time during the coverture of an estate of inheritance in severalty, in coparcenary, or in common, and hath issue by her born alive, and which might by possibility inherit the same estate as heir to the wife, and the wife dies in the life-time of the husband, he holds the land during his life by curtesy: 4 Kent's Com., 13th ed., 25; Litt., § 35; 2 Blackstone, 126; 1 Bishop, M. & W., § 473; Heath v. White, 5 Com., 228; Rawlins v. Adams, 7 Md., 26; Carrington v. Richardson, 79 Ala., 101, *et seq.*

The law imposes four requisites before the husband can take by the curtesy, viz.: 1, there must be a legal marriage; 2, there must be seizin by the wife during coverture; 3, there must be issue capable of inheriting the estate; 4, the wife must be dead: Jackson v. Johnson, 5 Cowen (N. Y.), 74, 95, 102; s. c. 15 Am. Dec., 433; Hunter v. Whitworth, 9 Ala., 967; Ferguson v. Tweedy, 43 N. Y., 543; Stewart v. Rees, 50 Miss., 776; Monroe v. Van Meter, 100 Ill., 347; Wheeler v. Hotchkiss, 10 Conn., 225; Withers v. Jenkins, 14 S. Car.,

597; *McDaniel v. Grace*, 15 Ark., 465; *Carpenter v. Garrett*, 75 Va., 129-133; *Winkler v. Winkler*, 18 W. Va., 455.

The marriage must be a lawful one. If it be declared void during the wife's life the tenancy fails. If valid at the death of the wife the husband takes by the curtesy. It could not be declared void after her death to affect his right: *Washburn on Real Prop.*, 5th ed., 172; *Stewart on Husband and Wife*, § 153; *Wheeler v. Hotchkiss*, 10 Conn., 225; *Mattocks v. Stearns*, 9 Vt., 326; *vid. also Smoot v. Leggate*, 1 Stew. (Ala.), 590.

The wife must have been seized of the estate some time during coverture; it need not be at the time of her death or at the time of the birth of the child: *Mercer v. Sheldon*, 1 How. (U. S.), 37; *McDaniel v. Grace*, 15 Ark., 465; *Withers v. Jenkins*, 14 S. Car., 597; *Upchurch v. Anderson*, 59 Tenn., 410; *Haynes v. Baum*, 42 Vt., 686; *Jackson v. Johnson*, 5 Cow. (N. Y.), 74; *Comer v. Chamberlain*, 6 Allen (Mass.), 166.

Before the death of the wife, after marriage, birth of issue and seizin, the right of the estate by the curtesy is called "*initiate*," and it is contingent then on the death of the wife, and is then assignable: *Rice v. Hoffman*, 35 Md., 344; *Foster v. Marshall*, 22 N. H., 401; *Winne v. Winne*, 2 Laws (N. Y.), 439; *Briggs v. Titus*, 13 R. I., 136; *Gardner v. Hooper*, 3 Gray (Mass.), 438; *Mechanics' Bk. v. Williams*, 17 Pick. (Mass.), 438; *Wicks v. Clarke*, 8 Paige (N. Y.), 161; *VanDuger v. VanDuger*, 6 Paige (N. Y.), 366.

After the death of the wife curtesy "*initiate*" becomes curtesy "*consummate*." The estate is then vested. It vests by operation of law and without assignment: *Wheeler v. Hotchkiss*, 10 Conn., 225; *Watson v. Watson*, 13 Conn., 83; *Oldham v. Henderson*, 5 Dana (Ky.), 254; *Rice v. Hoffman*, 15 Md., 344; *Williams v. Perkins*, 2 Me., 400.

In the American States this estate is greatly modified by State statutes. In some States it is abolished. In some, where the statutes are silent, the common law rule prevails, and in some States the common law rule is modified by statute. Vid. Stimson on Am. Stat. Law, § 3,300, *et seq.* also Stewart on Husband and Wife, § 160.

## PERSONAL.

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Dr. Archibald Church, of Chicago, is the editor of the *Chicago Medical Recorder*, published by the M. H. Kaufman Med. Pub. Co.

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Dr. W. Thornton Parker, formerly Medical Examiner of Rhode Island, will occupy the chair of Medical Jurisprudence at the College of Physicians and Surgeons, of Chicago, 1892 and 1893, and will reside in Chicago. The title of his paper at the International Medico-Legal Congress is "The Care of the Insane."

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Dr. Semal, President of the International Congress of Criminal Anthropology, held at Brussels last August, writes that he will attend the International Medico-Legal Congress of 1893.

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Dr. M. Nelson Voldeng, Assistant Superintendent of the Iowa State Hospital for the Insane, will read a paper at the International Medico-Legal Congress of 1893, entitled, "How Best to Dispose of the Criminal Insane."

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Dr. W. B. Fletcher, of Indianapolis, will contribute a paper to the International Medico-Legal Congress of 1893.

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Hon. N. C. Moak, one of the Bar leaders of Albany, whose death has just occurred, was a subscriber to this journal from its commencement.

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Peter Bryce, M. D.—The death of this eminent and distinguished alienist removes from the field of great usefulness one of the loveliest of characters and noblest of natures.

His place can not soon be filled. He was elected Vice-President of the Medico-Legal Society last year, and would have been a conspicuous figure at the International Medico-Legal Congress of 1893.

## RECENT LEGAL DECISIONS.

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*Supreme Court of Judicature, Court of Appeals, England.*

HANBURY *v.* HANBURY: The legal points actually decided in this case were, that as there was no question as to the repeated acts of cruelty and adultery by the husband, and the jury having found that when the respondent committed the acts of cruelty and adultery he was capable of fully understanding their nature and consequences, it would be manifest injustice to set aside the verdict and allow the husband a new trial. That the evidence justified the verdict and the finding of the jury adverse to the defendant's plea of insanity was conclusive and ought not to be disturbed.

The Court expressly refused to pass upon the legal question as to whether subsequent insanity, had it been established, would have constituted a defence. The comments of the judges have created considerable feeling in the legal circles in England.

Lord Esher, the Master of the Rolls, said, in deciding the case :

"Assuming a diseased mind, and that the diseased mind gave them certain impulses, (he would not call it an uncontrollable impulse, as he did not know what that meant in such a case as this) the respondent knew what he was doing, and that he was doing wrong.

An act of adultery was a culpable act against the wife. He was prepared to lay down as the law of England that whenever a person did an act which was either a criminal or culpable act, which act, if done by a person with a perfect mind would make him civilly or criminally responsible to the law, if the disease in the mind of the person doing the act was not so great as to make him unable to understand the nature and consequences of the act which he was doing, that it was an act for which he would be civilly or criminally responsible to the law.

Consequently, even though the respondent's mind was diseased, he was as responsible to the law as if his mind was not diseased."



In any Court, the finding of the jury as to the fact of the insanity or its non-existence, where there was a conflict of evidence, would not be disturbed.

The legal effect of the decision was simply that this appeal and application for a new trial were dismissed, and very properly.

The *Law Journal* and the *Law Gazette* both assail the dicta of Sir Charles Butt, (who tried the case with a jury,) and of the appellate court.

A. Wood Renton reviews the whole case in the July *Journal of Mental Science*, and the editor of the *Journal of Mental Science*, in commenting upon it, says."

"The weak points in the case of Hanbury v. Hanbury were that the patient was not only immoral, but also intemperate in his periods of mental excitement, and the answer to the plea of insanity was that the insanity was but the insanity of acute alcoholism; the second weak point was that the term "*folie circulaire*" was introduced, and neither judge nor jury knew the term, and thought it a form of disease especially invented for the trial."

If Mr. A. Wood Renton's version of a dialogue between the Master of the Rolls, and Mr. Lockwood, Q. C., for the respondent, is correct, of which we can have no doubt, this criticism is quite proper.

We do not understand the case of Hanbury v. Hanbury, to reverse the decision of Mordant, v. Moncriff (1874 L. R., 2 Sc. and Div., 374), nor to disturb the doctrine of Yarrow v. Yarrow (8 Times, L. R., 214).

## JOURNALS AND BOOKS.

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**JOURNAL OF MENTAL SCIENCE.** (July number, 1892.) The paper by D. Hack Tuke, M. D., of the Early History of York Retreat, is admirable.

It is illustrated by the portrait of his grandfather, Wm. Tuke, the founder, and the sketch of the original buildings (1792), both of which have appeared some years since in this journal.

The British Medico-Psychological Association held its session at York on the centennial of the foundation of this "Retreat for the Insane," the first of its kind in Great Britain which was destined under the Providence of God to work such stupendous changes in the treatment of the insane in the British Islands.

The essay is written in Dr. Tuke's happiest vein, and many of his historical reminiscences are of great interest, especially those of Lindley Murray, Pliny Earle, George Jepson, Dr. De la Reeve, Dr. Duncan, Dr. Ferrius, the physician of the 1st Napoleon, Dr. Foville, Dr. Max Jacobi, and last of all, Dr. John Conolly, whom he quotes as connecting the name of this great man with York Retreat, who, in after years, wrote concerning his student life in Edinburgh, and the events that led him to the great work of his life, as follows: "Viewing the things which I have described day after day, and often reflecting upon them, and with deep impression partly derived from the personal again and again, even when still a student, of that excellent "Description of the Retreat near York," and which I would still urge every student to read and to add to his library, and partly from what I had actually seen at Lincoln a few weeks before my residence at Hanwell, it was not long before I determined that whatever difficulties there might be to encounter, no mechanical restraints should be permitted in the Hanwell Asylum."

DR. JOHN BAKER, of the prison at Portsmouth, contributes a very interesting paper on "Some Points Connected with Criminals," in which he classifies them into four classes—

(1.) The occasional criminal who is sane. (2.) The born and habitual criminal, whose intellect is sound. (3.) The natural criminal who is more or less weak intellectually and morally. (4.) The insane criminal.

He describes these classes from a practical prison experience, and his paper, though short, is a valuable contribution to the subject from the practical stand point of a prison official.

**MEDICO-LEGAL STUDIES**, Vol. 2, (1891), by Clark Bell, Esq., (248pp), Published by Medico-Legal Journal.

The work is dedicated to Hon. David Dudley Field, and contains articles upon Medico-Legal subjects from the pen of the editor of this journal, published since June, 1889, when Vol. 1. was issued. The work is illustrated

with portraits of Hon. David Dudley Field, of N. Y.; Chief Justice E. E. Bernudez, of La.; A group of Legal and Judicial heads, Legal members of the Saturday Night Club, Chief Justice Andrews, of Conn.; Dr. Pliny Earle, of Mass.; Judge W. S. Ladd, of N. H.; Chief Justice Durfee, of R. I.; E. N. Dickerson, Esq.; Chief Justice Sir John C. Allen, of N. B.; Chief Justice Horton, of Kansas; and serial groups of eminent Judicial, Legal, and Scientific men, members of the Medico-Legal Society or of the International Congress of Medical Jurisprudence. The price is \$2.50.

**PUBLIC HEALTH ASSOCIATION**, 17th annual report. (1891) pp32. This work contains the original papers read before the American Public Health Association at its 19th session, with the reports of all the standing committees and the constitution, by-laws, and list of officers and members.

**MONTHLY ILLUSTRATED AMERICAN**. An excellent portrait of Mrs. John Gilbert is frontispiece for the September number. This is a well deserved tribute to one of the best and purest natures upon the American stage.

She has many friends in social life, and it is doubtful if she has an enemy.

The illustrations of this journal, now only in its 2d vol., are of the very highest artistic merit, the printing and paper are superb, and, all in all, this journal has no peer in its domain.

**THE CRIMINAL LAW MAGAZINE**. The July number contains an article, "Trial by Newspapers," by William S. Formad, Esq., and one entitled, "Notes on Criminal Practice," by E. Clinton Rhoads, Esq.

The editorial department of this journal is conducted by Hon. G. A. Endlick with great ability. The items of general interest and Humors of Criminal Law" are very interesting. The digest of recent criminal cases shows great research, and is of great value to the criminal lawyer.

**TAYLOR'S MEDICAL JURISPRUDENCE**. Lea Brothers & Co., Phil. (1892.) This is an American edition of this work, edited by the editor of this journal, from the 12th London edition just out, which was carefully edited by Dr. Thomas Stevenson, of London.

The work will shortly be published. This edition will contain a statement of the law on many topics as it now exists in England and the American States, with a reference to the authorities intended for medical jurists and lawyers.

It will furnish students with entirely new data on many subjects, treated in quite an original manner.

## BOOKS, JOURNALS, AND PAMPHLETS RECEIVED.

M. Louise Thomas, M. D.—Mitteilungen der Internationalen Kriminalistischen Vereinigung. Resumé des séances Troisième Congrès d'Anthropologie Criminelle (Brussels, 1892). *La Reforme*, August 11, '92. Brussels, *L'Étoile Belge*, 9 August, '92. *Le Soir Belge*, 11 August, '92. *Indépendance Belge*, 9th August, 11th, and 14th August, '92.

Frank P. Norbury, M. D.—III. Central Hosp. for Insane. Practical Cerebral localization. (1892.) Sulph of Calcium in Tonsillitis. (1892.) Athetosis Bilateralis. (1892.) Epilepsy. (1891.)

Prof. J. T. Jelks, Col of P. & S., Chicago.—Carcinoma of Uterus. (1890.) Mercury and Iodides in Syphilis. (1890.) Gun-shot Wound of Liver and Stomach. (1892.) Bleorrhœa in Women. (1892.) Papers read before Ark. State Med. Soc. (1889.) Tubercular Ostea, Myelitis of Tibia. (1889.)

W. W. Busch, Esq.—American Sheep Breeder and Wool Grower. May, July, and August, 1892.

Joel A. Fisher, Esq., Treas.—Annual report of N. Y. Christian Home for Intemperate men, and appeal for endowment.

I. H. Mussen, M. D., Phil.—Limitations and Powers of Therapeutics. (1892.) Danger of Antipyretics in Typhoid fever. (1892.) Whooping Cough, treatment, &c. (1891.) Purpura Hemorrhagica. (1892.) Tuberculous Ulcer of Stomach. (1890.) Dysentery. (1890.) Pulmonary Tuberculosis. (1891.)





HON. CHARLES GRANT GARRISON.  
Associate Justice Supreme Court of New Jersey.



HON. GEORGE T. WERTS,  
Associate Justice Supreme Court of New Jersey.

## HON. CHARLES GRANT GARRISON.

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ASSOCIATE JUSTICE SUPREME COURT OF NEW JERSEY.

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Justice Garrison was born August 3, 1849, at Swedesboro, N. J., and is the only member of the Supreme Bench from Southern New Jersey. After a complete classical education at Edge Hill School, Princeton, at the Episcopal Academy, Philadelphia, and the long established Medical School of the University of Pennsylvania, he graduated as a physician in 1872. He practiced that profession until 1876, when he entered the law office of Samuel H. Gray, of Camden, and was admitted to the bar in 1878. In 1884 he was made Judge Advocate General of New Jersey, and in 1882 Chancellor of the Southern Diocese (N. J.) of the Episcopal Church. Although a young man, and still the youngest member of the bench, he was appointed in January, 1888, to fill the place of the late Governor Joel Parker. Justice Garrison's study in the University of Pennsylvania admirably adapted him for critical investigations in the realm of medical jurisprudence. His opinions delivered in such cases have won for him a just recognition of his talents.

He is a member of the Medico-Legal Society, and takes a deep interest in forensic medicine, in which he is most thoroughly versed, and from his medical as well as legal education the ablest man in medical jurisprudence upon the Bench in the State of New Jersey.

## HON. GEORGE T. WERTS.

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ASSOCIATE JUSTICE SUPREME COURT OF NEW JERSEY.

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Justice Werts was born in Hackettstown on the 24th day of March, 1846, and after a good education was admitted to the bar in 1867. At Morristown, his home, he was elected Recorder in 1885 and since 1886 he has been Mayor of that city.

Entering the field of Democratic politics he became President of the Senate during the session of 1889, and in that year he was re-elected from Morris County, serving until his appointment as Justice of the Supreme Court. This occurred during the first week in February, 1892.

In his legislative career, Justice Werts drafted the new Ballot Reform Law—a decided step in advance over old methods—as well as the Liquor Excise Law. Possessed of rare social and legal attainments, the career of Justice Werts will probably be a most distinguished one, and will add lustre to an already famous bench.



## MAGAZINES.

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**NORTH AMERICAN REVIEW.** Ex-Speaker Thomas B. Reed presents in strong lines the historic claims for pre-eminence of the 51st Congress (sessions of 1890 and 1891), in measures affecting the country, its welfare, and prosperity.

Col. Ingersoll descants upon the well-deserved and praiseworthy labors of Thomas Paine in early American history.

No one can truthfully refuse the credit due this man for the role he played in moulding the early lines of our Constitution.

His assaults upon the Bible and the religious views of the bulk of his countrymen furnish a startling example of how bright an intellectual light may thus be dimmed and obscured.

**SCRIBNER'S** shows great excellence in its artistic work, notably in Delort's illustrations of *The Centaur by Guerin*.

**LIPPINCOTT'S.** Col Cockerill is a leading feature in the September number, on the "Newspaper of the Future." Col. Cockerill's pen, strong, graceful, and full of interest, has done great recent work on other journals than his own. It is not enough to build a great paper, as this able man has done. He now seeks to establish another reputation as a writer and essayist. He is coming into the front rank. His weekly contribution to the *New York Herald* attracts universal attention.

**POPULAR SCIENCE MONTHLY.** Prof. Edward S. Morse treats of "Natural Selection and Crime" in August number. This theme is one of the problems of the hour.

The International Congress of Criminal Anthropology, at Brussels, in August, grappled with the many issues, and the best minds of the World are now at work upon these topics.

**HARPER'S.** An unusually attractive article from Theodore Child on "Literary Paris" is full of interest.

Mr. Child has unusual facilities to know the celebrities of the French capital.

His sketches are delightful, and without being invidious, his review of Mr. Renan is a strong illustration of the literary ability and facility of this gifted young writer.

**THE ASCLEPIAD.** "The Cause and Prevention of Death from Chloroform," and "The Physiology of Dreams," are two of the leading articles in the last number of this interesting journal.

**CHAMBERS JOURNAL** (Edinburgh). Rev. S. Baring Gould contributes an interesting paper on "Cremation."

DUBLIN REVIEW (July). Professor de Harlez contributes a paper of great interest on "Infanticide in China."

EDINBURGH REVIEW (July). Its leader is an article on "Crime and Criminal Law in the U. S."

THE FORUM. Prof. William James contributes a paper on "What Psychological Research has Accomplished."

THE PSYCHICAL REVIEW, a quarterly devoted to psychical investigation, is published at Boston. It is the organ of the Psychical Society, and its last number has contributions from Rev. J. Minot Savage, Prof. A. E. Dolbear, A. R. Wallace, T. E. Allen, B. O. Flower, among others.

REVUE D'L'HYPNOTISM (Paris). Dr. A. Mole contributes a paper on "Lombroso and Spiritism" and Dr. Berillon one on "Spontaneous and Suggested Dreams in Hypnotic Sleep."





GROUP OF EX-CHIEF AND ASSOCIATE JUDGES OF THE SUPREME COURT OF OREGON.

EX-JUSTICE M. P. DEADY.	EX-CHIEF JUSTICE P. P. PRIM.
EX-CHIEF JUSTICE GEORGE H. WILLIAMS.	
EX-CHIEF JUSTICE A. E. WAITE.	EX-CHIEF JUSTICE E. D. SHATTOCK.
EX-CHIEF JUSTICE W. W. UPTON.	EX-CHIEF JUSTICE B. F. BONHAM.
EX-CHIEF JUSTICE R. P. BOISE.	JUDGE L. F. MOSHER.
EX-CHIEF JUSTICE W. W. THAYER.	
JUDGE JOHN BURNETT.	JUDGE L. L. MCARTHUR.

## THE McNAGHTEN CASE.\*

BY CLARK BELL, ESQ.

The McNaghten case created a great sensation in England in the year 1843, and was the occasion for the remarkable *obiter dicta* of the English judges regarding the defense of insanity in criminal cases, which has dominated English judicial thought since that day. All the facts relating to it are full of interest, not only to bench and bar, but to all students of this branch of forensic medicine.

McNaghten shot Mr. Drummond in 1843, mistaking him for Sir Robert Peel.

He was indicted for murder, and tried before Chief Justice Tyndall of the English Common Pleas, and was defended by the late Lord Chief Justice Cockburn, then at the bar and prior to his elevation to the bench, and was prosecuted by Sir William Follett.

McNaghten was undoubtedly insane, and labored under the delusion that Sir Robert Peel was plotting for and intended his destruction.

Cockburn's defense has well been called one of the most masterly in the annals of the English bar.

Sir Robert Peel did not even know McNaghten.

There was no question there, upon that trial, of the right and wrong theory, as Drummond well knew right from wrong, and yet he was dominated by and acted wholly under the influence of his insane delusion.

He also well knew the consequences of his act.

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\*Read before the Medico-Legal Society May 13, 1892.

These facts appearing, Chief Justice Tyndall appealed to Sir William Follett to consent to a verdict of acquittal, which was conceded by that learned jurist, and the verdict of not guilty was accordingly pronounced.

That acquittal was based upon the law of England as it then existed as recognized by the highest legal authorities, and the extraordinary action of the House of Lords, in calling upon the judges of the kingdom to express their opinions upon the law as applicable to insanity in criminal cases, followed.

It was extra judicial, wholly without authority of law, absolutely without precedent, and that precedent has never been since followed in England or elsewhere.

If the jury had acquitted Guiteau on the trial for the assassination of President Garfield, and the Senate of the United States had called upon the judges of this nation to express their opinions upon the law governing such cases, and the judges had responded by a convention and concerted action, it would have been quite an analogous proceeding, and would have been precisely as illegal, as extra judicial, as the example set by the House of Lords of England on that occasion.

How such a result as was reached by the English judges ever came to have any recognition in the English courts has always been an inexplicable marvel.

It was doubtless wholly due to popular clamor that the Lords acted.

The opinions of the judges were, in the largest sense, mere *obiter dictum*, and lacked every essential element of either authority or precedent. Their action was not the decision of a court of competent jurisdiction in any case or action pending before them, and of which they had jurisdiction, and yet their conclusion has, for nearly half a century, dominated English judicial thought and action and greatly affected the

American bench, until Judge Doe, of New Hampshire, overruled that part it called the right and wrong theory in that American State, about a quarter of a century ago.

The conclusions of the English judges have been called the doctrine of the McNaghten case, but, as shown, was rather a doctrine that grew up as a *sequella* of or to the McNaghten case.

I am glad to give the views of Mr. Sergeant Ballantine upon this subject, from his interesting book published in London in 1882, which I feel sure will be read with interest by every student of forensic medicine interested in the questions involved.

Mr. Sergeant Ballantine says :

#### MURDER OF MR. DRUMMOND.

In the commencement of the year 1843, as a gentleman named Drummond was walking down Parliament Street, he was fatally wounded by a pistol-shot fired by a man by the name of MacNaghten, a Scotchman. It was clear that he was mistaken by him for Sir Robert Peel, whom it was his intention to have killed. As Mr. Drummond was a man generally respected and of the most inoffensive habits, it was not unnatural that a storm of indignation should arise against the perpetrator of the act, whilst the patience exhibited by his victim during the few days that he survived the attack added to the general sympathy of the public.

MacNaghten was placed upon his trial for murder in the following February, Sir Nicholas Conyngham Tindal, Chief Justice of the Common Pleas, presiding. I have had occasion to refer to this Judge, although not at any length, when giving an account of the Courvoisier trial. He was certainly not a man of startling characteristics, but upon the bench presented a singularly calm and equable appearance. I never saw him yield to irritability, or exhibit impatience. I should say, in fact, that he was made for the position that he filled, and sound law and substantial justice were sure, as far as human power could prevail, to be administered under his presidency.

It required a judge of this calibre to control the violent feelings of indignation launched not unnaturally against the accused. Sir William Follett conducted the prosecution, and the late Lord Chief Justice, then Mr. Cockburn, was retained for the defense.

The facts were easily proved, and the only question that was in issue was whether the prisoner at the time of the commission of the crime was of sound mind, and the onus of showing the contrary practically devolved upon the prisoner's counsel. \*MacNaghten had been treated as a lunatic,

\*This is not so theoretically, as the indictment in terms declares the accused to be of sound mind and understanding.

and he appears to have imagined that Sir Robert Peel was bent upon his destruction, which he intended to prevent by the assassination. There was no ground whatever for even the belief that Sir Robert Peel knew him.

In a case not altogether analogous, but bearing some similarity to it, Erskine had made a most masterly and argumentative speech, dealing with the different phases of insanity, and Cockburn, in his defense of MacNaghton, had the advantage of that great advocate's views and treatment of the subject. This, however, did not detract from the merit of one of the most masterly arguments ever heard at the English bar. Several witnesses were called, and the facts that I have briefly stated were fully proved. Before the evidence was concluded, the Chief Justice appealed to Sir William Follett, who admitted that he must submit to a verdict acquitting the prisoner upon the ground of insanity, and this verdict was accordingly pronounced. A storm of indignation followed it. Mad or not, the prisoner ought to have been hanged ! Such was no uncommon expression, and a general denunciation of mad doctors, and some not very complimentary remarks upon lawyers, might not infrequently be heard. This outcry resulted in a very singular proceeding on the part of the House of Lords, which had no precedent, and fortunately has never been repeated. The judges were summoned by their lordships to express their opinion upon the law applicable to insanity in criminal cases. It seems to me surprising that they did not point out that such a proceeding was extra-judicial, and that their opinions could only properly be given upon certain facts arising before them in their judicial capacity, and that what was asked of them was to make a law in anticipation of facts that might hereafter arise. The same proceeding also might be adopted in relation to any subject, civil or criminal. However, the judges went and sat in solemn conclave, but, as might be expected, being called upon to found abstract opinions with no facts to go upon, they have not greatly assisted the administration of justice.\*

The important points propounded by the judges seem to be as follows :

The only ground upon which an alleged lunatic is entitled to an acquittal is that he did not know the difference between right and wrong in the act that he committed. If they had proceeded to say upon what principles this question was to be determined, some benefit might have arisen from their opinions.

The judges further say that, although a person may, in a particular matter, act under an insane delusion, and act in consequence thereof, he is equally liable with a person of sane mind. I presume this to mean that unless it be shown that the delusion destroyed his knowledge of the difference between right and wrong, which is to be discovered and proved independently of the admitted delusion, he must be considered of sane mind. If these dicta are to be received as law, then a totally different principle governs civil and criminal cases, and a person incapable of making a will or executing a deed may, nevertheless, be liable to be executed for the commission of what in a sane person would be a crime. However startling this proposition is, it cannot be controverted, and it appears to me that the subject is one worthy of further consideration and much more careful analysis

\*Mr. Justice Maule pointed out this difficulty.



than have ever been applied to it. In the observations that I have already made, and in those that follow, I do not pretend to lay down any proposition or dictate any solution of the difficulty, but merely wish to suggest certain matters that in the course of my practice have presented themselves to my mind, with a view of attracting the attention of better-informed and more experienced men.

That insanity exists to a most deplorable extent is testified by the numerous establishments, both public and private, for the care of lunatics, and the question of how far mental derangement, admitted to exist upon a particular point, affects the conduct of an individual beyond the scope of that point, is a subject worthy of the research both of medical men and lawyers. Doctors have introduced the term "uncontrollable impulse," and an excuse has been sought under this term for violent bursts of passion arising from natural causes; but are not such symptoms also the result of insanity? Have we not numerous instances in which under such influences the victims have destroyed themselves? It is not difficult to presume that they knew they were doing wrong, and, indeed, the cunning that in many cases attends their acts indicates that they did; but assuming one of the qualities of the sane human mind to be self-restraint, and supposing this barrier has been removed by insanity, ought the sufferer to be held criminally liable for his acts, although evidence existed that he was conscious of the difference between right and wrong?

When Ravaiillac assassinated Henry IV. of France, he believed that in doing so he was commending himself to God, and as many enthusiasts, at all times and in all countries, have acted under such impressions, it would be a dangerous doctrine to declare that, because the sense of right and wrong had disappeared, a criminal should be deemed irresponsible; and yet, on the other hand, an utter lunatic may possess a sense of right and wrong in many actions of his life. The case is well known of a madman who was cross-examined by Erskine ineffectually for some time. At last the counsel obtained the clue, and in answer to a question he put, the witness said "I am the Christ." Upon a subsequent occasion, when again cross-examined, he carefully avoided the admission that had defeated him upon the former occasion. He was admittedly a lunatic, but certainly if he had been charged with a crime it might fairly have been contended that he knew the difference between right and wrong.

As I have said already, a civil act is destroyed by proof that the person performing it was at the time subject to mental delusion upon one subject, although in every other perfectly reasonable. The only principle upon which this rule can be founded is that the mind is one and entire, and, if diseased, it is impossible, whatever may be the external signs, to say to what extent and in what direction the disease extends. If this be good reasoning, surely it is equally applicable to the mind of a person charged with a crime. I cannot think that, where an insane delusion is clearly proved, although numerous facts may be brought forward to show that the lunatic distinguished, up to the time of the offense, between right and wrong, that he ought to be consigned to the gallows. The gout that has taken possession of a man's toe suddenly leaps to his heart. When a man believes himself to be the Saviour, how is it possible for human skill to tell

what thought or opinion is likely to control any act of his life? The law must yield to the dispensations of Providence, however much prejudice and passion may seek to sway its administration.

I was witness of the outcry that Drummond's assassination occasioned in a case tried before Baron Alderson at the Central Criminal Court. That very learned judge summed up strongly for an acquittal upon the ground of insanity. The jury, however, took the matter into their own hands, and convicted the prisoner. The jury made earnest recommendations to the Home Secretary, but, nevertheless, the man was executed. It will not, I think, be uninteresting to record here one or two cases involving these questions, and in which I have at different periods of my career been engaged as counsel. One of them was of a very distressing character.

A lady of the name of Ramsbottom, the wife of an eminent physician, herself of middle age and generally respected, was suspected of pilfering from a draper's shop in Baker Street, Portman Square. She was watched, followed, and her person was searched, and several small articles were found concealed in different parts of her dress. She was given into custody, went through the painful ordeal of an inquiry at the Marylebone Police Court, and was committed for trial at the Middlesex Sessions. At the period when this occurred, Mr. Serjeant Adams was the presiding judge. He was thoroughly impartial and knew all the law necessary for his position, but it was not very well packed in the receptacle of his brain, and the particles constantly came out at wrong times and places. The case, however, could hardly have been confused, the facts were perfectly clear, the whole of the lady's life, as far as its history was known, was not only free from reproach, but thoroughly rational. The only point that could be relied upon for the defense was that the articles stolen were so trivial that no sane object could exist for intentional theft, and the only suggestion that could be made in her favor was that she was not responsible for her actions, being compelled by an uncontrollable impulse, or, to use a technical term, that she was the victim of kleptomania, not a very popular defense before a jury of tradesmen. However, after being locked up for some hours, they were discharged without giving a verdict, a result arising probably more from compassion for the lady's husband than any doubt about the facts.

I thought at the time that if, instead of laying a trap for her, the proprietor of the shop had conveyed a hint either to herself or to the doctor, it would have been the kinder course, and subsequent circumstances showed that in reality her conduct was attributable to insane influences, although certainly she knew thoroughly well that she was acting wrongly.

She died very shortly after the ordeal she had undergone, broken down in health and spirit with the shame and disgrace, and I was consulted, after her death had taken place, by Dr. Ramsbottom, under the following circumstances: Every drawer and cupboard in the house was found to be full of new goods, which she must have been in the habit of abstracting during many years, and I believe that in every instance they were contained in their original wrappers. Mrs. Ramsbottom was a religious woman, and I cannot doubt that every Sunday she listened with respect and veneration to the lessons taught in church, and fully realized the commandment of

"Thou shalt not steal." And it is clear that she, by the acts she committed, incurred danger and obtained no advantage. I advised Dr. Ramsbottom not to make the discovery public, and the articles found were distributed amongst different charitable institutions.

Can anyone doubt that insanity irresistibly controlled her conduct?

Many instances are upon record in which this extraordinary mania is alleged to have developed itself. And one case is known where an attendant always accompanied a lady of high rank when she went out shopping and paid for the articles she stole. Supposing in any of these instances the parties had committed a crime of a different description, would it be just to hold them responsible? The question is not unimportant, as such acts, if clearly proved, would, as the law now stands, invalidate a will.

Certainly the most remarkable and interesting case connected with mental derangement, in which I acted as counsel, was in connection with the will of a lady named Thwaites. She died at an advanced age, leaving a very large fortune, which she bequeathed to different persons with whom she had associated during her life-time, and none of whom were her relatives; and her next of kin disputed the will upon the ground that she was insane at the time of making it.

She had inherited the fortune in early life, unexpectedly, upon the death of her husband, and had administered it with judgment and discretion. She was neither niggardly nor profuse. She was charitable without being reckless, and kept her accounts, which were somewhat complicated, with accuracy and in excellent order. No restraint of any kind was ever placed upon her. She played whist, and, I am told, played it fairly well. She endured pain on different occasions with great resignation.\* And moreover, there was nothing extraordinary in the disposition of her property, as she had never held much intercourse with her own relatives. Unquestionably, however, she was guilty of some very extraordinary proceedings, and expressed some singular views. She asserted that she had been chosen by our Saviour to receive Him upon His return to earth, and that this event would therefore occur during her life-time, and she indicated the reality of this belief by making very extensive preparations for His reception, principally in the upholstery line, and there was a great deal of absurdity exhibited in the arrangements she made. Lord Penzance, before whom the case was tried, left it to the jury to say whether she was laboring under an insane delusion, and they found that she was, and he accordingly held that her will was invalid. The circumstances of this case suggest reflections as to how far religious opinions, absurd and ridiculous as they may appear to others, are to be accepted as proof of insanity. The main idea, round which every thought and act rotated in her mind, was the approaching return of the Saviour to earth. This surely cannot be treated as insane. The notion that she was selected to receive Him might be the product of vanity, and the misunderstanding of some of the mysterious passages that occur in portions of the Scripture, whilst the preparations she made were only the natural consequences of such a belief on the part of a person of utterly unrefined ideas; and it is to be noted that she was a woman of no

\*Dr. Turner, an old friend of mine and a physician of great eminence at Brighton, gave me an account of her great patience under suffering.

education, and from her earliest youth had been the object of fulsome attentions and flattery.\*

But a grave doubt has occurred to me as to whether the belief in question really had full and undivided possession of her mind, and whether there was not rather a pride in putting forward the claim. She sacrificed nothing of personal interest and comfort, and never appeared to undervalue the good things of this world in consequence of the great honor that was in store for her.

These speculations, however, are beside my main object in discussing the subject. For that purpose I assume that a delusion, utterly inconsistent with sanity, had taken possession of her senses, and that, therefore, she was unfit to execute any legal document. In what manner ought she to have been dealt with if she had committed what in a sane person would have been a crime? Her whole life showed that she understood the distinction between right and wrong, and if the issue left to a jury had been narrowed down to that question, unless the fact that she was under a delusion upon the subject of the Saviour's returning to earth and becoming her guest could be treated as evidence that she was unable to tell right from wrong, she must have been convicted.

I have been engaged in many cases of interest since the constitution of the Probate and Divorce Court before the three judges who have severally presided, and, amongst others, the very unhappy one of Lady Mordaunt. This unfortunate lady became insane after a confinement, and continued hopelessly so from that period. This was an instance where the mind was entirely destroyed, and therefore it presented none of those difficulties which I have pointed out in other cases, and which I venture to think deserve the attention both of those who make the laws and those who administer them.

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\*Sir Roundell Palmer led me upon the first trial, and his speech is well worth the perusal of those who desire to look deeply into this subject.

# MICRO-CHEMICAL EXAMINATION OF BLOOD STAINS.\*

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BY JOSEPH JONES, M. D., LL. D., PROFESSOR OF CHEMISTRY AND  
CLINICAL MEDICINE, TULANE UNIVERSITY, OF LOUISIANA,  
NEW ORLEANS.

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OFFICIAL REPORT ON CASE OF JOSEPH POLITO, CHARGED WITH THE  
MURDER OF SIMEONI CASCIO.

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On the 7th of October, 1892, S. H. St. Martin, Sheriff of the Parish of Ascension, Louisiana, presented the following statement and document, issued by the Hon. Walter Guion, Judge of the 20th District.

## CIRCUMSTANCES OF THE MURDER.

On the 22d of September the body of an Italian, Simeoni Cascio, was found half buried in a ditch, and presented, upon examination, a penetrating wound on the right side of the skull, which penetrated into the brain ; also an incised wound of the throat extending from ear to ear ; the right arm was cut to the bone. The locality was a lonely old field near the woods.

The victim was last seen going in the direction where he was found dead, in company with Joseph Polito.

When last seen, Cascio was walking in front of Polito, the former being a small man and the latter a tall, powerful man.

Cascio had been seven years in the Southern States, and was industrious and thrifty.

Polito had married Cascio's sister in Italy, and had left his wife in that country and reached Louisiana in January, 1892, and searched for his brother-in-law in Texas, and found him in about seven months, and returned with him to Ascension Parish about two days before the crime was committed.

Polito disappeared the day that the crime was committed about 8-11 a. m. ; came to Donaldsonville, where he changed his clothes and took the clothes with him, then came to New Orleans and changed his clothes here ;

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\*Read before the Medico-Legal Society, November session, 1892.

stopped at corner of Sixth and Tchoupiloulat streets with a small Italian man who had lost a hand.

Polito was arrested by Sheriff St. Martin and Officers Pat. ——— and Thomas Bell. Polito fled as soon as he saw the officers, and threw away a watch and chain, which was recovered and proved to be the property of the dead man. The pocket-book contained \$318, and he had a belt containing \$220 in gold. He also had a valise containing the dead man's clothes.

THE STATE OF LOUISIANA *vs.* JOSEPH POLITO.

*The State of Louisiana—20th Judicial District—Parish of Ascension :*

It is hereby ordered that the Sheriff of the Parish of Ascension be and he is hereby directed to take into his keeping a certain pocket-book and pocket-knife and certain paper-money found in the possession of Joseph Polito, who is suspected of having killed and murdered one Simeoni Cascio, as well as any other property found in his possession and upon which supposed blood stains may be found, and to convey and deliver the same into the care of Dr. Joseph Jones, or any other reliable expert, for the purpose of having said articles examined, in order to determine by proper tests whether the same have upon them stains or marks of human blood; the said Sheriff being hereby directed to have said analysis made in his presence, and when completed, to deliver all of said articles so examined into the keeping and custody of the Clerk of the 20th Judicial District Court for the Parish of Ascension. It is hereby further ordered that said Joseph Polito be notified by a service of a copy of this order on him.

Done and signed at the Parish of Assumption this 28th September, 1892.

Signed—WALTER GUION,  
Judge 20th District.

A true copy

Parish of Ascension, Sept. 30, 1892.

J. A. LAUDRY, Clerk.

October 7th, 1892.

Samuel H. St. Martin (Sheriff of the Parish of Ascension, Louisiana) delivered to me the following articles for Medico-Legal examination, October 1, 1892 :

- (1.) One ten-dollar bill, No. E735833E. September 22, 1891, Purcell National Bank, Indian Territory, series of 1882.

Two small spots, supposed to be blood.

- (2.) Two five-dollar bills :

No. A1867534\*, U. S. Treasury Note, legal tender, series 1890. Several spots, supposed to be blood.

No. A2421193\*, U. S. Treasury note, legal tender, series 1890. Several spots on front and back, supposed to be blood.

- (3.) One knife or dagger.

Blade about 4 inches ; handle about 5 inches.

Blood supposed to stain parts of handle.

- (4.) Red-leather pocket-book.

Supposed to contain blood on edge and other places.

This property taken from Joseph Politer 21st September, 1892.

- (5.) One hat and one collar lying near Simeoni Cascio.

Which were returned to the Sheriff, after examination, on October 3, 1892.

GENERAL RESULTS OF THE MICRO-CHEMICAL EXAMINATION OF THE SPOTS AND STAINS ON THE ARTICLES ENUMERATED IN THE PRECEDING STATEMENT.

(1.) KNIFE BLADE AND HANDLE :

Length of entire handle and blade,  $9\frac{1}{2}$  inches.

Length of handle,  $5\frac{1}{8}$  inches.

Circumference of largest part of handle,  $2\frac{3}{4}$  inches.

Circumference of smallest part of handle, 1 inch.

Length of blade,  $4\frac{3}{8}$  inches.

Greatest breadth of blade, 1 inch.

Greatest thickness of blade at junction with handle,  $\frac{1}{8}$  inch.

The blade tapers to a sharp acute point, both the back and cutting edge tapering gradually to an acute point, forming a spear-shaped weapon. On the back of the knife there are seven deep notches, about 1-16th of an inch wide and about 1-24th of an inch deep. The last is deeper, about 1-8th wide and about 1-10th of an inch deep. These notches run diagonally across the back of the blade, and are about 1-8th of an inch in length; and altogether occupying one inch of the back of the blade where it joins the handle.

The blade works upon a strong pivot, and, when closed, enters a deep cleft in the brass-bound black-ebony handle. The edge of the knife-blade, for about 4 inches, is thus sheathed and protected by the cleft in the handle. The body of the handle is composed of hard black-ebony wood, strongly bound by thin brass bands. The lowest band terminates in a figure resembling the head of a dog, the open mouth of which receives the point of the knife when closed.

The largest brass band is ornamented with four marks in the form of crosses, and 7 semi-circular lines with small marks, resembling rude crowns.

The ebony handle is ribbed and ornamented so as to secure a firm hold. The rivets are strong, and the entire weapon of a powerful and formidable character, adapted to stabbing and cutting.

The blade presented marks of having been recently cleaned and filed.

*The indentations on the back of the knife were apparently untouched, and when carefully scraped and excavated, with the point of a bright piece of steel, yielded dark-red masses or particles, resembling flakes of dried blood.*

*Microscopical examination and chemical analysis determined that these particles presented the properties of dried coagulated human blood.*

In like manner, the handle was subjected to minute examination, and by carefully scraping the sides of the cleft, which received the cutting edge of the blade, dark reddish-brown flakes were obtained, which, under the microscope, and under the action of chemical reagents, presented the characteristics of *human blood*.

(2.) POCKET-BOOK :

Length of red-leather pocket-book,  $8\frac{1}{4}$  inches.

Breadth of red-leather pocket-book,  $3\frac{3}{4}$  inches.

Color of pocket-book, bright red.

It contained 5 divisions.

The clasp was deranged.

One end of the pocket-book contained patches of dark-reddish material, which in several spots glued the divisions together.

Careful examination demonstrated that the scales, which were readily detached from the surface, presented all the essential microscopical and chemical characters of dried human blood.

(3.) BANK BILLS :

Microscopic and chemical examinations showed that the spots on the bills were due to blood.

(4.) The spots on the collar were due to *human blood*.

JOSEPH JONES, M. D., LL. D.,

156 Washington Avenue, 4th Dist.,

October 3, 1892.

New Orleans, La.



THE INTERNATIONAL CONGRESS OF  
CRIMINAL ANTHROPOLOGY  
OF 1892.\*

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HELD AT BRUSSELS, BELGIUM.

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REPORT BY M. LOUISE THOMAS, DELEGATE FROM THE INTERNATIONAL MEDICO-LEGAL CONGRESS AND VICE-PRESIDENT FOR NEW YORK OF THE MEDICO-LEGAL SOCIETY.

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The International Congress of Criminal Anthropology, which closed a session in Brussels, August 13, 1892, covering six entire days, was in some respects the most remarkable expression of scientific thought that the world has ever witnessed.

There were represented in it nineteen (19) distinct schools or divisions of scientific research, including medicine, abstract science, anthropology, alcoholism, political economy, hypnotism, medical jurisprudence, medico-psychology, prisons, insanity and its treatment, heredity of crime, hygiene.

The nations represented by delegates were Brazil, China, Denmark, France, United States of America, United States of Mexico, Hungary, Japan, Italy, Paraguay, Holland, Portugal, Roumania, Russia, Switzerland—fifteen.

Many of these delegates bore credentials direct from their respective governments, and the congress itself was under the patronage of the government of Belgium—a rare honor

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\*Read before the Medico-Legal Society, October Session, 1892.

in the world of thought. M. Jules Le Jeune, Minister of Justice, was Honorary President, and Dr. Semal, of Mons, one of the leading alienists of the world, was its accomplished President, Messieurs Dr. Heger, of the University of Brussels, Dr. Lefebvre, of the University of Louvain, M. Nyssens, of the Chamber of Representatives, and M. Theiry, of the University of Liege, were Vice-Presidents.

The French and Belgian papers voiced the popular interest by giving full reports of the proceedings each day, and the hall of the *Palais des Academies*, in which the sessions were held, seldom marked an absentee out of the nearly 200 members and delegates.

Among the delegates were four ladies—one from Spain, one from Norway, one from Russia, and one from the International Medico-Legal Congress of the United States.

Your delegate would like to designate some of the grand speakers and their themes. As for instance, M. Drill, of Russia, on "Criminal Anthropology;" M. Van Deventer, of Amsterdam, on "Types in Criminality;" M. Benedikt, of Vienna, on "The Measurements of the Cranium;" M. Motet, of Paris, on "Juvenile Crime;" Madame Pauline Tarnowski, of Russia, on "Female Criminals;" M. Paul Berillon, of Paris, on "Hypnotism;" M. Van Hamel, of Amsterdam, on the "Management of Incurables;" or M. Semel on "Suicide," but to do so would be invidious to the wealth of ideas presented by others.

On Tuesday the delegate from the United States was presented by M. Halot in a neat speech and conveyed to the congress an invitation from the American International Medico-Legal Congress to attend its session to be held in Chicago during the Columbian Exposition in August, 1893.

Mr. William C. K. Wilde, of New York, an associate delegate, warmly and kindly indorsed the invitation in an elo-

quent speech, and almost immediately after a number of the gentlemen present signified their readiness to accept.

On Wednesday afternoon an excursion was made to the insane asylum for women at Mons, under the charge of Dr. Semal. The party, numbering about 200, was conveyed by special train to Mons, where they were formally received by the Mayor and his aides in the large hall of the Hotel de Ville in a very graceful and witty speech, which was responded to in turn by the President, Dr. Semal.

After viewing the rooms, and admiring the old paintings and some fine old Flemish tapestry by Teniers, we took the train two miles further to the insane asylum—a roomy, grey stone building on a hill, with extensive wings spreading out, all thoroughly equipped for the object intended. It contains at this time about 600 female patients of different grades, ranging from those wholly supported by charity to the wealthy, with separate rooms and attendants and all the refinements of life, but in every case and everywhere, the most exquisite neatness prevailed, and flowers and birds in sunny rooms and womanly employments of sewing, knitting, embroidery and music appeared with a certain air that marked it all as the regular home life of the inmates and not a mere show-day regalis.

The gardens and grounds were beautifully adorned with flags and all aglow with borders of bright summer flowers, while the ladies—the patients, I mean—walked about among us, or on the other side of low fences, enjoyed the day and the music of the band with us. One dear old woman expressed her happiness by clapping her hands and crying aloud repeatedly “*Vive la roi!*” but for the most part there was little beside quiet, orderly enjoyment everywhere.

At the close of the beautiful dinner, which was served in the large theatre hall, we were entertained most agreeably by

quartettes, solos, recitations, and a little drama by the patients.

It was all very human and altogether as complete as advanced science could make it in every particular, and yet our soul was constrained to cry aloud with Laurence Sterne :

“ Disguise thyself as thou wilt, still  
Insanity, thou art a bitter draught ! ”

To be old and poor and mad ! Alas, alas !

On the next day quite another experience was provided for the congress. In the afternoon His Majesty King Leopold honored the event by attending the session, accompanied by two gentlemen in uniforms.

His Majesty wore a large star on his left breast. When he arose to withdraw the session was adjourned.

The same evening a reception was given by his Majesty in the royal palace to the members and delegates of the congress, and also to those of two other conventions then in session—one on political economy, and one on archaeology. The Congress of Criminal Anthropology greatly outnumbered both the others. There were only six ladies among the whole number; there was also a large number of government staff officers in their rich uniforms and decorations, which gave a very bright and cheerful appearance to the assembly.

The king entered the hall very quietly and walked slowly to the upper end, where the American delegate chanced to be second or third in the line. His Majesty is a very tall, large man, of fine proportions, with a strong, thoughtful expression of face.

As he approached I remarked to a gentleman beside me : “ His Majesty is like Saul ; he is head and shoulders above other men. He is made of the true pattern for kings.” M. Semal, President of the congress, made the presentations. I was the first lady in the line. His Majesty listened attent-

ively to the kind words concerning the delegate from the United States and then with most gracious smile and bow, in the purest English, he expressed his pleasure in receiving a lady from America. He said: "Yours is a great and growing country. I am much interested in it. It is the great regret of my life that I have never been to America."

To this I replied: "Your Majesty will never know how many friends you have there until you do come."

"Ah!" he said, laughing, "that is very kind, very kind indeed."

I said: "If your Majesty would kindly honor us by coming next year to our Columbian Exposition how proud and happy we should be."

"Yes, yes," he said, "if I only could. You Americans will make of your Exposition a great success. You like to do things large and great and you will be sure to do it well, but I dread the ocean—it makes me so sick."

I replied: "But we shall have now great American steamers, floating our own flag, and, with your Majesty aboard, the Belgian flag also, you will cross the ocean so swiftly and so smoothly that no sickness will touch your Majesty."

Again he laughed and shook his head and said: "Ah, if I could, if I could."

I said: "We hope, your Majesty, to see Belgium well represented in our Exposition among the nations of the earth."

"Ah!" he said, "Mine is only a little country, while yours is so large and so rich and prosperous. We are all watching you with great admiration and respect."

I replied: "Belgium is rich also, your Majesty, in many things. In many of her industries she leads the world, as the many gold medals accorded to her in past expositions will prove. The people are patterns of industry and thrift and cleanliness, and in beautiful little farms, and her women take their share in all the pursuits of life, which I specially

like. I am not sure that it is not better to be small, excepting in men—I like large men best.”

After some little time his Majesty came back to say he hoped I enjoyed Brussels and that the congress was going in a way to please me.

I assured him that it was all very good; that it was a representative gathering of great thinkers, many of them tried specialists in new lines of science; that while some of the views expressed were not in accordance with my own, they were for the most part well said and they all commanded my respect by their calm and temperate use of entire freedom of speech in their best efforts to advance the aims of science. I thanked his Majesty by giving to the occasion his royal indorsement and patronage and I hoped that the International session to be held in Chicago next year under the auspices of the American International Medico-Legal Congress would receive the same wise and generous indorsement from the world's leaders in science.

Later in the evening his Majesty came to me a third time, and, extending his hand, said he begged the honor of shaking hands with the delegate from the United States, and hoped I would carry away with me only agreeable impressions and happy memories.

The congress closed at night with a grand banquet.

# RECENT JUDICIAL EVOLUTION AS TO CRIMINAL RESPONSIBILITY OF INEBRIATES.\*

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BY CLARK BELL, ESQ., PRESIDENT AMERICAN INTERNATIONAL  
CONGRESS OF MEDICAL JURISPRUDENCE.

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By the common law of England it was conceded the words *non compos* meant a total deprivation of reason. Lord Coke divided it into four parts, or, as he called them, "Manners."

*First.* The idiot or fool.

*Second.* He who, of good and sound memory at birth, lost it by visitation of God.

*Third.* Lunatics who have lucid intervals, and sometimes of good sound memory, and sometimes *non compos mentis*.

*Fourth.* By his own act as a drunkard.

So that drunkenness at and by Common Law under certain circumstances was a form or species of insanity. By the same Common Law it was held :

*First.* That the drunkard was responsible for all his acts criminally, even if the state of drunkenness was such as to make him insensible to his surroundings and unconscious of his acts.

*Second.* That drunkenness, instead of being any defense to a charge of crime committed while in a state of intoxication, was not only no defense, but that it aggravated the act.

These doctrines were upheld by the English Courts in *Dammaree's case*, 15 St. Tr., 592; *Frost case*, 22 St. Tr.,

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\*Read before the Medico-Legal Society, October 19, 1892.

472; *Rex v. Carroll*, 7 c. and p., 115; and these doctrines have been held likewise in nearly all the American States.

In Ala., *State v. Bullock*, 13 Ala., 413; in Cal., *People v. King*, 27 Cal., 507; in Conn., *State v. Johnson*, 40 Conn., 106; in Del., *State v. McGonigal*, 5 Har., 510; in Ga., *State v. Jones*, 20 Ga., 534; and in nearly every American State similar decisions have been made.

The Common Law which would not uphold a deed, will, or contract, made by a drunken man in an unconscious state of intoxication, would hold the same man criminally liable for every act constituting a violation of the criminal law. To-day we are regarding these views as legal curios and relics of the past.

The law should have its museums for the preservation of its antique anomalies. A silent, unconscious change has been wrought in the law, not by legislation, but by the growth of ideas, the diffusion of knowledge.

Insanity is now demonstrated to be a disease of the brain, of which it is itself an outward manifestation. Inebriety is also shown to be a disease of the man, manifesting itself through brain indications, which demonstrate it to be a form of insanity, wholly dominating the volition and beyond the powers of the victim to control, and is now treated as such.

The essential element of crime, intention, hardly fits into the acts of the unconscious inebriate, who, while blind or dead drunk, kills an innocent victim, and the absence of motive, like the absence of intention, are missing links in that chain which the law exacts in regard to all criminal action. It would be next to impossible now to find a judge willing to charge a jury that a crime committed by a man in a state of intoxication, in which the accused was unconscious of his act, or incapable of either reflection or memory, should be placed on a par with one fully comprehended and understood by the perpetrator.



Buswell says, in speaking of the old doctrine of drunkenness being an aggravation of the offense : "It is apprehended that this is the expression of an ethical rather than a legal truth."—(Buswell on Insanity.)

Such considerations compel us to inquire : What is law ? There are two schools of thought regarding it.

Webster, the great expounder of the American Constitution, is credited with saying : "Law is any principle successfully maintained in a Court of Justice." This represents one school.

Richard Hooker, in his ecclesiastical polity, represents the other. He says of Law : "There can be no less acknowledged than that her seat is the bosom of God, her voice the harmony of the world ; all things in heaven and earth do her homage ; the very least as feeling her care, the greatest as not exempted from her power." The gulf intervening between these two extremes is as wide and deep as that which divided Abraham and Lazarus in the parable of our Lord.

The framers of the New York Penal Code, without the courage to hew down the error of the old doctrine, engrafted thereon a provision that enables a jury now, in that State, to pass on the motive and the intention of the unconscious and wholly insensible inebriate, so that by law now in New York, since the Penal Code of that State, a conviction would, in such a case, be well nigh impossible.

How have the English Judges met the question ? In 1886 Mr. Justice Day, in *Regina v. Baines*, at the Lancaster assizes, charged a Lancaster jury, that if a man was in such a state of intoxication that he did not know the nature of his act, or that it was wrongful, he was insane in the eye of the law ; and that it was perfectly immaterial whether the mental derangement resulting from such intoxication was permanent or temporary.

In 1887 Chief Baron Palles held that if a person, from

any cause, say, long watching, want of sleep, or deprivation of blood, was reduced to such a condition that a smaller quantity of stimulants would make him drunk, and that would produce such a state if he were in health, then neither law nor common sense could hold him responsible for his acts, inasmuch as they were not voluntary, but produced by disease.

As long ago as 1865, in the case of Watson, tried at Liverpool for the murder of his wife before Baron Bramwell, the evidence showed that he was laboring under delirium tremens. After the act, he grew calm and said he knew perfectly well what he had done, and that his wife was in league with men who were hidden in the walls.

Baron Bramwell, who favored hanging insane men who committed homicides, when acting under an insane delusion, if of sufficient intelligence to understand the nature and quality of the act and its consequences, tried the case, and charged the jury that there were two kinds of insanity, by reason of which a prisoner was entitled to be acquitted. Probably the jury would not be of opinion that the prisoner did not know the quality of his act, that it would kill and was wrong, but it was still open to them to acquit him, if they were of opinion that he was suffering from a delusion leading him to suppose that which, if true, would have justified him in the act. One more remark he would make, viz: That drunkenness was no excuse, and that a prisoner can not, by drinking, qualify himself for the perpetration of crime; but if, through drink, his mind had become substantially impaired, a ground of acquittal would then fairly arise. The prisoner was acquitted.

Under the English law there is no right of appeal to the convicted homicide, as in the American States, and so it is difficult to find the decision of English higher courts on the questions involved in the discussion.

In the American States no person is executed except on the decision of the highest court of the State, if the accused desires it and appeals. In England the appeal does not lie as a matter of right, and so the opinion and dicta of the English trial Judges form the real body of the law of England upon these questions.

Baron Bramwell undoubtedly regarded Watson as entitled to an acquittal, and the case shows a remarkable result in this respect. Had he been insane and committed the homicide under delusions which dominated his will and controlled his action, he would have been convicted if he had sufficient intelligence to understand the nature and the quality of the act, but the drunkenness which had caused the attack which resulted in delirium tremens, with a diseased condition of the brain, also resulted in a delusion which controlled his mental powers so as to render him irresponsible at law.

In 1888 Baron Pollock held that the law was the same where insane predisposition and not physical weakness was the proximate cause of the intoxication.

The English Home Secretary, Mr. Matthews, is one of the ablest men connected with the English government.

Under the English system he has the power to commute or modify the sentence of the courts in criminal cases, and he exercises it with as much effect, and more in many cases, than would the reversal of the Appellate Court, if the right of appeal existed.

No eye in Great Britain sees more clearly or more intelligently the action of the criminal courts than his. It is his province to correct errors and redress grievances and abuses, if such exist or occur, in the criminal jurisprudence of Great Britain. He has recently named a commission, composed of Mr. J. S. Wharton, Chairman; Sir Guyer Hunter, M. P.; Mr. E. Leigh Penburton, Assistant Under Secretary of the

Home Department; Mr. Daniel Nickolson, Superintendent of the Broad Moor Criminal Lunatic Asylum, and Mr. C. S. Murdock, head of the Criminal Department, to inquire into the best mode of treatment and punishment for habitual drunkards.

Mr. Matthews says, regarding the appointment of this committee, "Great differences of opinion have arisen as to what kind and degree of punishment for offences committed by habitual drunkards would be the most effectual, both as a deterrent and with a view to the reformation of such offenders. It appears to me that advantage would result from an inquiry being made into the subject." It may be fairly claimed, so far as the British Islands are concerned, that the old common law rule no longer is enforced there, and that inebriety, as a disease, is now not only recognized as an existing fact, but that the jurisprudence of that country is receiving such modifications as are necessary to fit it for the advance made by scientific research.

We are doubtless near similar results in the American States.

## CRIMINAL RESPONSIBILITY IN THE EARLY STAGES OF GENERAL PARALYSIS.\*

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At no time in the history of civilization have influences so comprehensive and far-reaching been contributory to spurring men to action beyond their capacities to bear as to-day. We are "a restless nation, possessed of an energy tempted to its largest uses by unsurpassed opportunities," the disastrous results of which are shown in premature decay; in that most prevalent disease, neurasthenia, with its attending miseries; and the increase of that form of mental derangement known as general paralysis of the insane. While it is true that syphilis is the basis of much of general paralysis, yet the exciting cause, even in these cases, is overwork, brain tire and abuse of the nervous system. The American disease, neurasthenia, offers hope for recovery; the mental derangement, general paralysis, is a disease that carries its victims, sooner or later, to the grave.

A study of this most protean malady is of great importance to every physician, for its early recognition will often prevent crime and modify the progress of the disease by placing the patient under proper treatment. Further, we are hopeful that, with the advancement and dissemination of clinical knowledge of this disease, it will be recognized

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\*Read before the Medico-Legal Society, November 9, 1892.

while in its functional stage and here arrested. Folsom, of Boston, has, of the American writers, given us the most classical description of this disease, which I here quote :

I. GENERAL PARALYSIS.—General Paralysis is clinically a primary disease, some times acute, but for the most part sub-acute and chronic in its early manifestations, with a definite recognizable anatomical basis, and progressive, in which symptoms of brain failure, too slight to be remarked at their actual incipency, are rapidly or slowly succeeded by a cerebral incoordination, both psychic and motor, including under the term psychic the so-called moral as well as purely intellectual attributes of the mind, a disease which, in its course involves every function of the brain, and may in its various phases exhibit many of the symptoms observed by the neurologist as well as most of those known to the alienist—first impairing, then paralyzing, in its steady progress, all those high qualities, mental and physical, that distinguish civilized man, and finally, after the wreck of mind and body, destroying life itself.”

The early symptoms will concern us in this paper. They have not been very satisfactorily studied, because the attending physicians have not distinguished general paralysis from other forms of insanity, and, as a consequence, the prodromal stage is generally passed before the alienist meets the case. The family or friends have been aware of a change in the character and disposition of the patient, but have not been much alarmed, “thinking it would pass away.” But, no ! The case is progressive, and some day they realize that insanity exists, and forthwith apply for hospital treatment, too late, however, for benefit to the patient. Brush says it is unfortunate that the clinical feature of the early symptoms of general paralysis are not more graphically defined, and attributes the cause to the lack of observation on the part of the attending physicians, who, in very few instances, have recognized the

disease even after it has advanced to such a degree as to require asylum care. The diagnosis of general paralysis is rarely made, as evidenced in the following diagnosis, taken from cases coming under my observation during the past four years, viz: Nervous prostration, melancholia, traumatism, "la grippe," brain softening, alcoholism, morphine habit, etc. In the majority no form of insanity is given and the cause is stated as unknown.

Folsom, of Boston, and Hughes, of St. Louis, have exhaustively studied the early symptoms of general paralysis. Folsom says the earliest signs of general paralysis are the the slightest possible brain failure. If, for instance, a strong, healthy man, in or near the prime of life, distinctly not of the nervous, neurotic, or neurasthenic type, shows some loss of interest in his affairs, or impaired faculty of attending to them; if he become varyingly absent-minded, heedless, indifferent, negligent, apathetic, inconsiderate, and although able to follow his routine duties, his ability to take up new work is, no matter how little, diminished; if he can less well command mental attention and concentration, conception, perception, reflection, and judgment; if there is an unwonted lack of the imitative, and if exertion causes unwonted mental and physical fatigue; if the emotions are intensified and easily changed or excited readily from trifling causes; if the sexual instinct is not reasonably controlled; if the finer feelings are even slightly blunted; if the person in question regards with a placid apathy his own acts of indifference and irritability and their consequences, and especially, if at times, he sees himself in his true light and suddenly fails again to do so; if any symptoms of cerebral *vaso-motor* disturbance are noticed, however vague or variable, then we can regard his case as general paralysis.

Hughes, in a personal letter to me, says: There is undoubtedly a pre-ataxic stage of general paralysis, a hyperar-

mic condition, when the paretic individual engages in, or is inclined to engage in, business and other ventures, having fewer features of certainty in outcome to commend them than would enlist the active financial interest of the person about to be afflicted with paretic dementia, in his normal mental state. At this stage, when self-confidence is becoming supreme and the morbid impression of conscious capacity for success in almost any undertaking is possessing and growing intenser in the mind every day, the victim of commencing paresis may complicate his social relations, as he is liable to do his business affairs, and just as he might do and does do in beginning paresis, where the initial symptoms are those of mental depression or melancholia.

Savage, of England, in a paper on the "Warnings of General Paralysis," says: "There are two forms of onset of the disease—the gradual and the sudden. In the latter there is nothing to warn before the storm has broken. In the gradual onset there is a more or less regularly progressive degeneration of mind and body, so that the highest faculties show the first signs of change and the special attainments fail before the more general; the finer social and the finer muscular adaptations fail, and changes and weaknesses in mind and body show themselves. To start with the motor side, early fatigue is most marked and is associated with indecision, doubt, and hypochondriasis." Temporary aphasia he regards as an important symptom and is present long before change in hand-writing is noticed. This change in hand-writing is specially an important symptom, and is present for a year or more before signs of general paralysis are declared. Facial expression changes; the face becomes fat. The mental and moral tone is changed; the changes of temper and character are noticed early in general paralysis. Self feeling is exaggerated, hypochondriasis is a frequent warning, and in such cases the morbid ideas are centered in the gastro-intes-



tinal tract. The combined motor and mental symptoms lead to a diagnosis of general paralysis.

The symptoms, as detailed by these authorities, seem striking and capable of being easily recognized, but careful study of the patient and pains-taking interrogation of the family and friends are also necessary to define a case of general paralysis. The mental symptoms are variable, but usually this feeling of well-being prevails, characterized by excessive cordialty, boasting of power and wealth, marked by extravagance in everything undertaken. Emotions are, seemingly, in a balance; anger is easily and hastily aroused and as easily and hastily calmed. Crying and laughing alternate quickly. Moral lapses are so frequent at this time that females are assaulted, undue exposure is made of the person in public places, sexual and alcoholic excesses are common, and so frequent are the varied moral lapses that the unfortunate subject, especially if he belong to the lower class of society, becomes lodged in jail for offences committed. His irritability and anger may lead him to murder, assaults, and trespass on the rights of others. (Lewis.) His exalted ideas of power and authority cause consternation in assembly halls, churches, and in the seats of government. Such in brief is an outline of the early symptoms of general paralysis. The later stages are seen within the walls of an insane hospital, where death, sooner or later, comes to relieve the weary sufferer of the burden of life.

II. RESPONSIBILITY.—Medicine and law differ radically on the question of responsibility. Scientific medicine has been the pioneer to explore the still unsettled regions of criminality among the insane, and has satisfactorily established principles which the legal profession must, sooner or later, acknowledge as scientific truths. This question of responsibility, as viewed by medicine and law, is, as Judge Somerville, President New York Medico-Legal Society, says: "The same

old fight of science against the crystalized prejudices of error and ignorance." The law on the one side claiming culpability when knowledge of right and wrong exists; medicine on the other holding there is no criminal act when the individual can not choose between right and wrong, because of the destruction of the power of self-control. The medical test is based on the presence of disease and its abnormal results on conduct; the legal test is metaphysical and theoretical. Medical diagnosis is based on pathology and experience; the legal ignores any physical condition which does not affect the moral attributes. "The legal cares nothing for impulse, loss of will power, or sudden change of character and conduct without motives or childish incentives." Medicine tests scientifically by taking in the whole man; it gives a study of the individual, a comparison of his mental condition when the crime was committed with himself at periods remote and subsequent.

By so doing, we permit of the only rational method of determining sanity from insanity. "We supplant tradition and fiat of statutes by the facts of clinical medicine from which we draw just conclusions."

We at once recognize the importance of a study of mental diseases in order to thoroughly and adequately determine responsibility. A physician is by right the proper person to conduct an examination to determine the unsoundness of mind; the familiarity with mental diseases accorded him in our own State by the law requires him to acquaint himself with these diseases in order to sustain this position. That he does not do this, we are painfully aware, and because of this inattention the medical profession has been made to suffer ridicule and opprobrium from lawyers, judges, and the press. So far has this gone, that it has been said that any ordinary man is able to detect any form of insanity as well as a physician.

We, in the description of general paralysis, have shown the difficulty attending the diagnosis of this form of insanity, and insisted upon prolonged observation in order that no mistake may be made. The same will apply to all forms of insanity, especially so in cases involving criminal responsibility, and we reiterate that, for the sake of justice in cases presenting the plea of insanity, where doubt exists as to insanity, observation of the case be made, and preferably by temporary commitment to an insane hospital, where the experienced superintendent and other medical officers may scientifically examine the case. The want of such methodical observation has, no doubt, caused many innocent to suffer and many guilty to escape. Such an examination, impartially pursued, will render great assistance to the courts and aid in the establishment of medical expertism upon a firm and scientific basis.

#### RESPONSIBILITY IN ITS BEARINGS UPON GENERAL PARALYSIS.

I am sure there are many unfortunates serving sentence to-day for crimes committed who should be treated as sick patients and given the attention they deserve. An analysis of their crimes will show that a "diseased mind prompted the act and a disorganized will power permitted its commitment." The crimes, if they should be so called, of a general paralytic differ from those of the moral or criminal insane.

Bevan Lewis says, regarding the crimes of a general paralytic, as compared to the moral insane, "In the latter the crimes indicate impulsive and uncontrollable states, as the result of a lowered or defective moral sense; the normal inhibitory control is wanting, and instinctive impulses rise in full activity. It is not so with the acts of a general paralytic; they are neither premeditated nor impulsive, but casual, often appearing to be unconsciously performed; even if the

act appear determinate, its nature and consequences are wholly obscure to the agent's mind." "And here the essential nature of these acts, on the part of such subjects, becomes apparent; that high degree of representativeness essential for the recall of similar actions previously performed and the vivid realization of the consequences of such actions in the past is here wholly wanting; and still less is that re-representative faculty intact, which enables him to contrast the act as viewed in its nature with certain ethical canons. The moral lapse is, therefore, truly significant of a clouded intellect. An act of theft may be committed with open effrontery, no attempt at concealment being made; the most wanton outrages on public decency, the most audacious libertinism, may be committed quite oblivious to a breach of public morals."

Hughes, in his letter, says: "I would suspect and recommend surveillance for a very active business man of from thirty-six to forty-five years of age who might be found acting in a manner different from that which, up to that time, was natural to him in business or social affairs, especially if his conduct was such as might be attributed to a man under the exhilaration of drink, when it could be clearly shown that the man did not indulge in alcoholic drink at all. I am convinced that a good deal of unrecognized and irreparable harm has been done to the interests of paretics and the welfare of their families by such procedures on the part of the former, which were unnatural to them in their thoroughly sane condition, by acts committed (business, or otherwise) in the hyperaemic preataxic stages of this disease."

Folsom, in a recent letter to me, says, regarding the conviction and imprisonment of general paralytics: "I do not see how it is consistent with a reasonable sense of justice to convict a general paralytic in any stage of his disease, no matter how early; and when a man of previous good charac-

ter commits a crime, it seems to me that he should be placed in an insane asylum for observation, if there is any doubt as to his responsibility. I have no doubt that in the near future all of our States will have laws, as some of them have now, empowering judges to send people to insane asylums for observation, in case of doubt of their sanity, and judges will more frequently use this power."

In our State we have no such provision; in fact, our lunacy law is a failure, both as to the practical commitment of the insane and the protection of their best interests.

The mittimus on which an insane person who has committed a criminal act is admitted into the insane hospitals of this State is equal to a life sentence in cases of general paralysis. It instructs the superintendent of an insane hospital "to take the body of said defendant (the hopeless paralytic) and confine him in said hospital until he has fully and permanently recovered from his insanity," which is when he dies. The general paralytic should not justly be committed to a hospital on such legal paper, because, first, he is a sick man; second, he is not responsible for any criminal act whatever, and third, it is oftentimes to his advantage, and a pleasure to his friends, to have temporary absence from the hospital, and, in case of impending death, to satisfy the desire of his family or friends, it may be best to remove him to his home, which can not be done when committed on a mittimus.

My conclusions are, after studying the medico-legal bearings of responsibility in the early stages of general paralysis:

I. General paralysis is a plea for irresponsibility.

II. No judge is warranted in committing a general paralytic to the penitentiary.

III. It is not judicious or right to commit general paralytics to insane hospitals on a mittimus.

IV. When in doubt as to the existence of general paralysis, it is the duty of the judge or jury to forego sentence and commit the individual to an insane hospital for observation, at least long enough to determine the existence or non-existence of general paralysis.

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## DYING DECLARATIONS.\*

BY CLARK BELL, ESQ.

Dying declarations may be defined as statements of material facts concerning the cause and circumstances of homicide, made by the victim under the solemn belief of impending death, the effect of which on the mind is regarded as equivalent to the sanctity of an oath.

They are substitutes for sworn testimony, and must be such narrative statements as a witness might give on the stand, if living.

3 Russell on Crimes (9th Am. Ed.), 250; Wharton Criminal Evidence (9th Ed.), § 276; Roscoe Crim. Ev. (10th Ed.), 34; Greenleaf on Evidence (14th Ed.), § 158.

1. Dying declarations are admissible only in cases of homicide, where the death of the deceased is the subject of the charge, and the circumstances of the death are the subject of such declarations.

Reynolds v. State, 68 Ala., 502; Hill v. State, 41 Ga., 484; Montgomery v. State, 80 Ind., 281; Wright v. State, 41 Texas, 246; Hackett v. People, 54 Bar. (N. Y.), 370; Hudson v. State, 3 Coldw. (Tenn.), 355; 3 Russell on Crimes (5th Ed.), 354.

2. The declarations must be made not merely *in articulo mortis*, but under the sense of impending death, without expectation or hope of recovery.

Reynolds v. State, 68 Ala., 502; People v. Hodgson, 55 Cal., 72; State v. Darrand, 5 Oregon, 216; Dunn v. State, 2 Ark., 229; Hay v. State, 40 Maryland, 633; State v. Blackburn, 80 N. C., 474; 1 Greenleaf on Evidence (14th Ed.), 158; Tracy v. People, 97 Ill., 101; People v. Gray, 61 Cal., 164.

3. Dying declarations are admissible, even though others may not have thought the person making them would die.

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\*Read before the Medico-Legal Society, December session, 1892.

People v. Simpson, 48 Mich., 474; R. v. Mosly, 1 Mood. C. C., 97; R. v. Peel, 2 F. & F., 21.

But not if the victim has any hope of recovery, however slight.

3 Russell on Crimes (9th Am. Ed.), 252.

Hope of recovery afterwards abandoned makes the dying declarations admissible.

Swall v. Com. of Pa., 91 Pa. State, 304; Yong v. Com. (Ky.), 6 Bush, 317; State v. McEvoy, 9 S. C., 208; Mockabee v. Com., 75 Ky., 380; R. v. State, 12 Cox C. C., 103; State v. Kilgore, 70 Mo., 546; R. v. Hubbard, 14 Cox, C. C., 505.

It is not essential, however, that the consciousness of impending death should be expressed by the dying man himself; it may be collected from the circumstances of the case, the nature of the wounds, or from expressions used by the victim.

Com. v. Murray, 2 Ark., 41; Com. v. Williams, Ib. 69; State v. Gallick, 7 Clark (Iowa), 237; State v. Nash, Ib. 347; People v. Lee, 17 Cal., 76; People v. Ybarra, Ib. 166; Kilpatrick v. Commonwealth, 7 Casey, 198.

The dying declarations may be made by signs, by writing, or in any other manner of communication.

Com. v. Casey, 11 Cush., 417; Jones v. State, 71 Ind., 66; R. v. Reddingfield, 14 Cox, C. C., 341.

It is not necessary that the examination of the deceased should be conducted after any formal manner.

It is no objection that the declarations were obtained by pressing and earnest solicitation, or in answer to leading questions.

The jury pass upon the effect of the statements and their real value.

1 Russ. on Crimes (5th Ed.), 360; Com. v. Casey, 11 Cushing, 417; R. v. Osman, 15 Cox, C. C., 1; R. v. Woodcock, 2 Leach, 561; State v. Wilson, 24 Kansas, 189.

5. It does not matter if considerable time elapses after the declarations were made, if they were uttered under a sense of impending death, and without hope of recovery.

3 Russ. on Crimes (5th Ed.), 355; 1 Phillips's Ev. (10th Ed.), 245; 3



Russ. on Crimes (5th Ed.), 556; Roscoe's Crim. Ev. (10th Ed.), 57; R. v. Bernadotti, 11 Cox, C. C., 316.

6. Dying declarations must be confined strictly to the act of killing, and to the facts and circumstances relating to and attending it, which form a part of the *res gestæ*.

They are inadmissible in relation to former or other transactions, not relating to the killing, or disconnected with the death of the victim.

Reynolds v. State, 68 Ala., 502; Urol v. State, 20 Ohio St., 460; West v. State, 7 Texas Appeals, 150; State v. Wood, 53 Vt., 560; State v. Draper, 65 Mo., 335.

The true test of the relevancy of the declaration is, as to whether the deceased could have testified to them as a witness in the cause, if living.

They must be statements of actual facts, and not be mere expressing of opinions, or matters of belief.

Shaw v. People, 3 Hun (N. Y.), 272; State v. Williamson, 67 N. C., 12; Reynolds v. State, 63 Ala., 502; McPherson v. State, 22 Ga., 478; People v. Wasson, 66 Cal., 538; People v. Taylor, 59 Cal., 640.

7. Before dying declarations are received in evidence, it should be shown that they were actually made in expectation of impending death, and without hope of recovery. This may be shown by the nature of the injury, by what the injured person said, or what the physicians and attendants said in his hearing, the state of his mind, and the facts surrounding the act.

It is not essential that the injured person should have stated that the declarations were made in expectation of death, or that any one in his presence should have stated that his death was impending or must follow.

People v. Simpson, 48 Mich., 474; Ward v. State, 78 Ala., 441; State v. Patterson, 48 Vt., 308.

8. The question of the admissibility of the declarations is a judicial one, and is to be determined by the Court from all the circumstances of the case.

The province of the Court is to pass upon the admissibility

of the declarations. Their weight and effect is to be determined by the jury alone.

Campbell v. State, 38 Ark., 509; Walker v. State, 37 Texas, 366; People v. Maine, 16 N. Y., 113.

9. Dying declarations may be given in evidence as well in favor of the prisoner on the trial as against him.

Moon v. State, 11 Ala., 764; R. v. Scaife, 1 M. & Rob., 551; 3 Russ. on Crimes (5 Ed.), 361, *n*.

10. Where a child is of intelligent mind, and fully comprehends the nature and effect of an oath, his declarations, made under a belief of impending death, are admissible.

R. v. Pike, 3 C. & P., 598; R. v. Perkins, 2 Moo. C. & C., 135; 9 C. & P., 395; Wharton Cr. Ev. (9th Ed.), § 290.

11. The deceased must be shown to have been in such a state of mind, at the time the declarations were made or signed, as to have had a full and clear understanding of the document he signed or of the declaration made.

Winfield v. State, 15 Neb., 484; Mitchell v. State, 71 Ga., 128; McHugh v. State, 31 Ala., 317.

12. The general rule of evidence applies to all cases alike, whether the defense be insanity, self-defense, or an *alibi* as to dying declarations.

They are regarded by the law as secondary evidence, and will be received and treated by the judges as such.

Boyle v. State, 105 Ind., 469; S. C. 55 Am. Rep., 218; State v. Vansent, 80 Mo., 67; Lambert v. State, 23 Miss., 322; People v. Knapp, 1 Edm. Select Cases (N. Y.), 177.

13. If the deceased would be incompetent as a witness, if living, for any cause, his declarations could not be received.

*a.* If convicted of an infamous crime.

*b.* If an insane person.

*c.* If incompetent for any reason.

1 Greenleaf on Ev. (14th Ed.), § 157; Nesbit v. State, 43 Ga., 238; Walker v. State, 39 Ark., 220.

As to insanity.

Bolin v. State, 9 Lea (Tenn.) 516; Donnelly v. State, 2 Putch. (N. J.), 463; State v. Ah Lee, 8 Oregon, 314.

## TRANSACTIONS.

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### MEDICO-LEGAL SOCIETY—OCTOBER SESSION.

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October 19, 1892, Society met at Hotel Imperial, the President, Judge H. M. Somerville, in the chair, and a large attendance of ladies and gentlemen. Mr. Clark Bell acted as Secretary.

The minutes of meeting held June 8, 1892, were read and approved.

The following persons were, upon the recommendation of the Executive Committee, duly elected:

#### ACTIVE MEMBERS.

Hon. A. S. Wait, Newport, N. H. Proposed by D. M. Currier, M. D.

Dr. John E. Arschagouni, 155 Worth Street, New York. Proposed by Clark Bell, Esq.

W. M. Bullard, M. D., Secretary Board Medical Examiners, Helena, Montana. Proposed by Clark Bell, Esq.

G. Thad Stevens, Esq., 61 Broadway, N. Y. City. Proposed by Clark Bell, Esq.

W. T. Patterson, M. D., Superintendent Illinois Hospital for Insane Criminals. Proposed by Clark Bell, Esq.

D. Evans Britton, M. D., Medical Director New Jersey Insane Asylum, Morris Plains, N. J. Proposed by Dr. Spratling.

V. W. Seely, Esq., Assistant City Attorney, Milwaukee, Wis. Proposed by U. O. B. Wingate, M. D.

Dr. James T. Searcey, Superintendent State Insane Asy-

lum, Tuscaloosa, Ala. Proposed by Judge H. M. Somerville.

Judge Safford E. North, of Batavia, N. Y. Proposed by Dr. T. D. Crothers, of Conn.

#### CORRESPONDING.

Proposed by Clark Bell, Esq.: James Murray Lindsey, M. D., President elect British Medical Psych. Association, Superintendent Derby County Asylum, Mickleover, Derby, England; Chancellor Alex. T. McGill, Jersey City, N. J.; Vice-Chancellor Abram B. Van Fleet, Newark, N. J.; Vice-Chancellor John T. Bird, Trenton, N. J.; Vice-Chancellor Henry C. Pitney, Morristown, N. J.; Judge George T. Werts, Supreme Court of New Jersey, Morristown, N. J., Governor elect of New Jersey; Chief Justice William P. Lord, Supreme Court of Oregon, Salem, Oregon; Judge R. S. Bean, Supreme Court of Oregon, Portland.

Clark Bell, Esq., then read a paper entitled "Judicial Evolution as to Criminal Responsibility of Inebriates."

A paper by Prof. Marshall D. Ewell, of Chicago, was then read, entitled "A Micrometric Study of Four Thousand Red Blood Corpuscles, in Health and Disease."

The Secretary announced that at the November meeting a paper would be read by Dr. Joseph Jones, of New Orleans, on a similar subject, and the discussion was postponed, to enable both papers to be discussed together, to the November session.

The Chair then announced M. Louise Thomas, who made a report of the action of the International Congress of Criminal Anthropology, held at Brussels in August last, which was attended by her and W. C. K. Wilde, as delegates from the Medico-Legal Society, and by her as delegate from the International Congress of Medical Jurisprudence of 1893.

On motion, this report was received, ordered printed, and placed on file.

The President called Clark Bell, Esq., to the chair, and pronounced a eulogy upon the life, career, and character of Peter Bryce, M. D., Vice-President of this Society, who had died since the last session of this body.

The President then resumed the chair, and Mr. Clark Bell pronounced a eulogy upon ex-Chief Justice Edward E. Bermudez, of Louisiana, who had died since our last session, a member of the Society, Vice-President of the International Medico-Legal Congress, and upon Prof. John J. Reese, of Philadelphia, also a Vice-President of the International Medico-Legal Congress, and a corresponding member of this Society, and an associate editor of the MEDICO-LEGAL JOURNAL. Mr. Bell also spoke of the recent death of Judge E. W. Seymour, of the Supreme Court of Connecticut, whose death has just been announced, and paid a tribute to the memory of Judge Seymour.

Prof. H. A. Mott submitted the following note of Prof. Reese:

"Prof. Reese was born in Philadelphia, Pa., the 16th day of June, 1818, and died since our last session. He graduated at the University of Pennsylvania in 1837, and at the Medical Department in 1839, when he began to practice in his native city. He entered the U. S. Army, as surgeon of volunteers, in 1861, and was in charge of a hospital in Philadelphia. Dr. Reese continued to reside in that city until the day of his death. He was Professor of Medical Jurisprudence and Toxicology in the University of Pennsylvania, and a member of numerous scientific societies, both in this country and in Europe. He was President of the Philadelphia Medical Jurisprudence Society in 1886-'7, and physician to St. Joseph's Hospital, member of the College of Physicians of Philadelphia, and he was corresponding member of this Society and one of the associate editors of the MEDICO-LEGAL JOURNAL.

"Prof. Reese contributed largely to professional literature. He edited the 7th edition of Taylor's 'Medical Jurisprudence,' and published 'American Medical Formulary' (Philadelphia, 1850), 'Analysis of Physiology' (1853), 'Manual of Toxicology' (1874), and a text book of 'Medical Jurisprudence and Toxicology' (1884), of which he has edited recent editions.

"Prof. Reese was always sincerely desirous to encourage an increasing interest in the students of both medicine and law for the most important,

but too much neglected, subject—Forensic Medicine—which he defined to be ‘the science which applies the knowledge of medicine to the requirements of law,’ so that such cases which require, for their proper elucidation, an appeal to medical knowledge, were termed by him ‘Medico-legal’ cases, and the science on which they are based, he named ‘Medical Jurisprudence.’

“Prof. Reese was frequently called in the courts as an expert, and certainly stood at the head of his profession as a medical jurist. He was a man of sterling character, respected by all who knew him, and his death brings sorrow to his numerous friends, and misfortune to science and scientific associations.”

Mr. Floyd Clark presented the thanks of the family of Dr. P. Bryce for the tribute paid his memory by the eulogy of the President of the Society.

Mr. Clark Bell, as President of the International Medico-Legal Congress, announced that the session of that congress would be held in the city of Chicago, during the week commencing August 14, 1893, in co-operation with the Columbian Exposition, and stated that distinguished scientists, at home and abroad, were sending in notifications of their intention to be present.

Dr. Semal, President of the International Congress of Criminal Anthropology, held at Brussels, had recently written that he should attend, and that Dr. Maurice Benedikt, of Vienna, Dr. Paul Berrillon, of Paris, Dr. Van Hamel, of Amsterdam, Holland, and many others had assured the American delegate of their intention to attend.

That invitations had gone and were going out to various countries, under the recommendation of Hon. James G. Blaine, while Secretary of State for the United States for Foreign Affairs, and, from all indications, a large attendance would be had as well from our own member and countrymen as from scientists in foreign countries.

Mr. Bell read a letter from Marshall D. Ewell, Chairman of the World's Congress, Auxilliary Committee on the Department of Medical Jurisprudence, inviting the members of the Medico-Legal Society to take part in the Congress of

Medical Jurists, which would be held at the same time of the International Medico-Legal Congress, in Chicago.

On motion of Mr. Bell, this invitation was accepted with thanks, and the members of the Society requested to co-operate with the World's Congress Auxilliary Committee at the proposed Congress of Medical Jurists.

Dr. Isaac Lewis Peet moved that the Secretary be requested to prepare a letter, which should be sent to each of the families of the lustrous names whom we mourned this evening, expressing, in fitting terms, the sense of this body at the loss of Vice-President Peter Bryee, M. D., ex-Chief Justice E. E. Bermudez, Prof. John J. Reese, and Judge E. W. Seymour.

This motion was adopted unanimously.

Society then adjourned.

H. M. SOMERVILLE,

CLARK BELL,

*President.*

*Secretary.*

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## NOVEMBER MEETING.

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November 9, 1892, Society met at Hotel Imperial, 8 o'clock p. m., Judge H. M. Somerville, President, in the Chair, and Clark Bell, Secretary.

The reading of the minutes of October meeting were dispensed with.

On recommendation of the Executive Committee, the following persons were duly elected :

### ACTIVE MEMBERS.

A. E. Osborne, M. D., Superintendent California Home for Children, Glen Ellen, Cal.; Prof. Marshall D. Ewell, Chicago, Ill. Proposed by Clark Bell, Esq.

William B. VanLennep, A. M., M. D., 1421 Spruce Street, Philadelphia, Pa. Proposed by J. Arschagouni, M. D.

Luke D. Stapleton, Esq., Arbuckle Building, Brooklyn, N. Y. Proposed by Judge Abram H. Dailey.

John M. Byron, M. D., Loomis Laboratory; W. T. Jenkins, M. D., Health Officer, New York City. Proposed by M. D. Field, M. D.

#### CORRESPONDING MEMBERS.

Proposed by Clark Bell, Esq.: Herbert E. Smith, M. D., Yale University, New Haven, Conn.; B. O. Flower, Esq., editor the *Arena*, Boston, Mass.; Charles Ernest Pellew, Esq., Demonstrator in Chemistry, University of Columbia, New York City; Judge Frank A. Moore, Supreme Court of Oregon, Salem; Dr. Clarence Thwing, Manitoba; Dr. Vlem-wickx, President Medico-Legal Society of Belgium, Brussels; Dr. Robert Reyburn, Washington, D. C.; ex-Chief Justice W. W. Upton, Washington, D. C.; Hon. C. K. Davis, U. S. Senator, Washington, D. C.; ex-Judge A. S. Walker, Supreme Court of Texas.

Mr. Clark Bell read the paper forwarded by Joseph Jones, M. D., from New Orleans, entitled, "Micro-Chemical Examination of Human Blood," which was discussed by the President and Clark Bell, Esq.

In the absence of Dr. Frank P. Norbury, Judge Abram H. Dailey read his paper, entitled, "Criminal Responsibility in the Earlier Stages of General Paresis," which was discussed by the President and Judge Abram H. Dailey.

Judge Somerville recommended that the thought suggested by the paper be made a theme for a consensus of opinion by alienists for mutual instruction, and expressed the opinion that an interchange of views by alienists and medico-legal jurists would be of great interest and value upon the question of criminal responsibility in this class of cases.

The Chairman of the Executive Committee, Mr. Clark



Bell, reported that that committee unanimously approved of the following amendments to the constitution, and recommended their adoption :

1. Amendment proposed by Dr. Bettini di Moise, that Article V. of the constitution be amended by inserting the word "Bacteriologist" after the word " Librarian."

2. That Article VI. be amended by adding thereto the following words: " The Bacteriologist shall report annually on the progress of that science and its relation to medical jurisprudence."

Also an amendment proposed by Clark Bell, Esq., viz.: That Article V. of the constitution be amended by adding to that article, before the word "Curator," the word "Microscopist."

That Article VI. of the constitution be amended by adding thereto the words: " The Microscopist shall report annually to the Society the progress of the science of microscopy and micrometry, and their relation to forensic medicine."

Mr. Bell moved the adoption of the amendments, and the Chair ordered that the action upon the proposed amendments lie over until the December meeting, under the provisions of the constitution, to be then considered and acted upon.

The Society proceeded to the nomination of officers for the ensuing year.

Mr. Clark Bell nominated Judge H. M. Somerville for the Presidency. Judge Somerville called Judge A. L. Palmer, Vice-President of the Society for New Brunswick, to the Chair, and explained why he could not consent to devote the necessary time to a proper discharge of its duties, and after expressing thanks, declined the position. He then placed the name of Mr. Clark Bell in nomination for the Presidency.

Mr. Bell, after acknowledging the high honor conferred by the nomination, asked leave to decline its acceptance on the

ground of his labors as editor of the JOURNAL, coupled with the work devolving upon him in connection with the American International Medico-Legal Congress, to be held next year in Chicago, and declined the honor.

Judge Somerville then nominated Judge Abram H. Dailey for the place, which was seconded by Mr. Clark Bell, and adopted.

The following nominations were then made, to be sent to members under the regulations of the constitution for voting by mail :

*For President,*  
JUDGE ABRAM H. DAILEY,

*For Secretary,*  
CLARK BELL, Esq.

*For Chemist,*  
PROF. H. A. MOTT, JR.  
PROF. C. A. DOREMUS.

*For 1st Vice-President,*  
JUDGE H. M. SOMERVILLE,  
of Alabama.

*For Corresponding Secretary,*  
MORITZ ELLINGER, Esq.

*For 2d Vice-President,*  
ALBERT BACH, Esq.

*For Treasurer,*  
MATTHEW D. FIELD, M. D.

#### TRUSTEES:

*Legal,*  
CHIEF JUSTICE S. M. EHRLICH.  
A. J. DITTENHOEFER, Esq.  
MACGRANE COXE, Esq.

*Medical,*  
C. P. SPRATLING, M. D.  
A. M. PHELPS, M. D.  
FRANK H. INGRAM, M. D.  
WM. TODD HELLMUTH, M. D., of New York.  
CHAS. H. SHEPARD, of Brooklyn, N. Y.

#### PERMANENT COMMISSION.

*Legal,*  
EX-JUDGE W. H. ARNOUX, of N. Y.  
JUDGE A. L. EMERY, of Maine.

*Medical,*  
DR. JAS. T. SEARCEY, of Alabama.  
PROF. VICTOR C. VAUGHAN, of Mich.  
PROF. W. A. HALL, of Wis.

*For Librarian,*  
G. BETTINI DE MOISE, M. D.  
THOMAS CLELAND, M. D.

*For Assistant Librarian,*  
THOMAS CLELAND, M. D.  
G. BETTINI DE MOISE, M. D.

*For Bacteriologist,*  
JOHN W. BYRON, M. D.

*For Microscopist,*  
PROF. MARSHALL D. EWELL, M. D.  
ROBERT J. NUNN, M. D.  
W. J. LEWIS, M. D.

*For Assistant Secretary,*  
EUGENE COHN, Esq.  
FREDERICK E. CRANE, Esq.

*For Curator and Pathologist,*  
J. CLARKE THOMAS, M. D.  
FRED J. VALENTINE, M. D.  
C. P. SPRATLING, M. D.  
FRANK H. INGRAM, M. D.

*Vice Presidents for the States, Territories and Provinces.*

- Alabama—Judge Thos. W. Coleman, Montgomery.  
 Algeria—Dr. C. Perronnet, Algiers.  
 Arkansas—P. O. Hooper, M.D., Little Rock.  
 Austria—Prof. R. Krafft-Ebing, Vienna.  
 Belgium—Dr. Vlemineckx, Brussels.  
 California—W. W. McFarlane, M.D., Agnew.  
 Colorado—Prof. J. T. Eskridge, Denver.  
 Connecticut—Dr. Henry P. Geib, Stamford.  
 Cuba—Dr. Venancio Zorilla, Havana.  
 Delaware—Gov. T. S. Biggs.  
 Denmark—Prof. Godeken, Copenhagen.  
 District of Columbia—W. W. Godding, M.D., Washington City.  
 England—Wm. L. Orange, M.D., Brighton.  
 Ecuador—Señor J. M. P. Cammano, Washington, D.C.  
 Florida—Dr. King Wyly, Sandford.  
 France—Judge Barbier, Paris.  
 Georgia—Dr. Eugene Foster, Augusta.  
 Germany—Prof. D. Furstner, Heidelberg.  
 Holland—Dr. P. A. H. Sueens, Vucht.  
 Hungary—Staatsanwalt Emerich V. Havas, Buda Pesth.  
 Illinois—Dr. Milo A. McClelland, Chicago.  
 Indiana—W. B. Fletcher, M.D., Indianapolis.  
 Iowa—Dr. Jennie McCowen, Davenport.  
 Ireland—Dr. R. J. Kinkead, Galway.  
 Italy—Prof. Dr. P. Pellicani, Bologna.  
 Japan—Dr. Kensai Ikeda, Tokio.  
 Kansas—Judge Albert H. Horton, Topeka.  
 Kentucky—Dr. D. W. Yandell, Louisville.  
 Louisiana—Dr. Joseph Jones, New Orleans.  
 Maine—Judge L. A. Emery, Ellsworth.  
 Manitoba—Dr. D. Young, Selkirk.  
 Maryland—H. B. Arnold, M.D., Baltimore.  
 Massachusetts—Ed. J. Cowles, M.D., Somerville.  
 Mexico—Prof. Ramirez, Mexico.  
 Michigan—Victor C. Vaughan, Ann Arbor.  
 Minnesota—Prof. W. A. Hall, Minneapolis.  
 Missouri—Judge J. C. Normile, St. Louis.  
 Mississippi—Dr. C. A. Rice, Meridian.  
 Montreal—Daniel Clark, M.D., Toronto.  
 Nebraska—Dr. Wm. M. Knapp, Lincoln.  
 Nevada—S. M. Bishop, Reno.  
 New Brunswick—Judge A. L. Palmer, St. Johns.  
 New Hampshire—James W. Bartlett, M. D.  
 New Jersey—Hon. Geo. A. Halsey, Newark.  
 New Mexico—Gov. Bradford L. Prince.  
 New South Wales—Geo. A. Tucker, M.D.  
 New York—Mrs. M. Louise Thomas, New York City.  
 New Zealand—Prof. Frank G. Ogston, Dunedin.  
 North Carolina—E. T. Fuller, M.D., Raleigh.  
 Norway—Dr. Harold Smedal, Christiania.  
 Nova Scotia—Simon Fitch, M.D., Halifax.  
 Ohio—W. J. Scott, M.D., Cleveland.  
 Pennsylvania—Hon. Henry M. Hoyt, Philadelphia.  
 Peru—Señor F. C. C. Zegarro, Washington, D. C.  
 Portugal—Prof. Dr. Antonio Henriques da Silva, Coimbra.  
 Rhode Island—Henry E. Turner, M.D., Newport.  
 Russia—Prof. Dr. Mierzejewski, St. Petersburg.  
 Saxony—Judge de Alinge, Oberkotzow Hof.  
 Scotland—W. W. Ireland, Preston Pans, Edinburgh.  
 Servia—Hon. Paul Savitch, Belgrade.  
 Sicily—Prof. Dr. Fernando Puglia, Messina.  
 South Carolina—Dr. Middleton Michel, Charleston.  
 Spain—Prof. Dr. Jeronimo, Granada.  
 Sweden—Prof. Dr. A. Winroth, Lund.  
 Switzerland—Prof. Dr. August Forel, Zurich.  
 Tennessee—John H. Callander, M.D., Nashville.  
 Texas—Dr. D. R. Wallace, Terrell.  
 Utah—Le Grand Young, Esq., Salt Lake.  
 Vermont—Prof. W. L. Burnap.  
 Virginia—Dr. James D. Moncre, Williamsburg.  
 Washington Ter.—Ex-Gov. Wm. C. Squire, Seattle.  
 West Virginia—F. M. Hood, M.D., Weston.  
 Wisconsin—Dr. Jas. H. McBride, Wauwatosa.

On motion of Judge Abram H. Dailey, power was conferred upon the President and Secretary to add names to those placed in nomination, in case it became proper, in their judgment, and to provide for those cases where Vice-Presidents had died, or had not been placed in nomination.

The Society adjourned.

H. M. SOMERVILLE,

*President.*

CLARK BELL,

*Secretary.*

MEDICO-LEGAL SOCIETY—ANNUAL MEETING.

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December 14, 1892, Society met at Hotel Imperial at 8 P. M.

In the absence of the President, Judge A. L. Palmer, Vice-President, of New Brunswick, was called to the Chair by Vice-President Albert Bach, and Clark Bell acted as Secretary.

The Chair named as Inspectors of Election, Mr. Albert Bach, Clark Bell, Esq., and C. Van D. Chenoweth, to whom the Assistant Secretary delivered the ballots that had been sent to him by mail, and the Inspectors proceeded to canvass the votes.

The minutes of the October and November meetings, as printed in the MEDICO-LEGAL JOURNAL, were read and approved.

The following persons were elected on recommendation of the Executive Committee:

## ACTIVE MEMBERS.

Proposed by Clark Bell: Dr. Franklin Soper, 309 West 42d Street, City; George W. Kidd, Esq., 853 5th Avenue, City; Robert H. M. Dawbarn, M. D., 105 West 74th Street, City; J. Francis Tucker, M. D., 71 Broadway, City.

Proposed by Judge Abram H. Dailey: Judge M. L. Towns, 379 Fulton Street, Brooklyn; Samuel T. Maddox, 91 Broadway, Brooklyn; John A. Anderson, Esq., Real Estate Exchange, Brooklyn.

Proposed by Matthew D. Field, M. D.: Dr. McKenzie, Superintendent Insane Hospital, St. Johns, New Foundland.

## CORRESPONDING MEMBERS.

Proposed by Clark Bell, Esq., William H. Wathen, M. D., Louisville, Ky.; J. H. Musser, M. D., University of Pennsylvania, Philadelphia, Pa.; James T. Elk, M. D., Hot

Springs, Ark.; Ex-Judge A. W. Terrell, Austin, Texas; Judge A. T. Watts, Austin, Texas; T. Duncan Greenless, M. D., Superintendent Insane Hospital, Grahantown Colony, Cape Good Hope, South Africa; Ex-Chief Justice George H. Williams, Portland, Oregon; Judge Matthew P. Deady, Portland, Oregon; Ex-Judge L. L. McArthur, Supreme Court of Oregon, Portland, Oregon; Ex-Chief Justice W. W. Thayer, Portland, Oregon; Ex-Chief Justice A. E. Wait, Portland, Oregon; Judge W. J. Magie, Elizabeth, N. J., and Judge Depue, Supreme Court of New Jersey, Newark, N. J.

The Secretary read a letter from the President, expressing regret at his inability to be present at the session.

The Society then took up the amendments to the Constitution.

The amendment proposed by Dr. DiMoise to Articles V and VI were, on motion, adopted unanimously, creating the office of Bacteriologist and defining its duties.

The amendment proposed by Clark Bell, Esq., to Articles V and VI, creating the office of Microscopist of the Society, and defining its duties, as made at the November meeting, were, on motion, duly adopted, and the several proposed amendments declared duly adopted.

The Society then listened to a paper, read by Clark Bell, Esq., entitled "Dying Declarations."

Mr. Eugene Cohn, Assistant Secretary, read a paper contributed by A. Wood Renton, Esq., of London, entitled "Report of the Lambeth Poisoning Case."

Mr. Bell, Secretary, reported that the Executive Committee had authorized the appointment of a Psychological Section, to be under the management of a Chairman, Secretary, and Treasurer, to which all persons are eligible, whether members of the Society or not, if approved by the said Chairman, Secretary, and Treasurer of the Section, or a quorum thereof, at annual dues of \$1.50 to members and \$5.00 to non-mem-

bers, and that the Section should defray its own expenses out of said dues, without charge to the Society; that C. Van D. Chenoweth had been selected as Chairman, and Clark Bell as Secretary, of that Section.

On motion, the Society approved of the action of the Executive Committee.

The Inspectors reported the following officers had been duly elected, having received a majority of all the votes cast :

*For President,*

JUDGE ABRAM H. DAILEY,

*For 1st Vice-President,*

JUDGE H. M. SOMERVILLE,

*For 2d Vice-President,*

ALBERT BACH, Esq.

*Vice-Presidents for the States, Territories and Provinces.*

- Alabama—Judge Thos. W. Coleman, Montgomery.  
 Algeria—Dr. C. Perronnet, Algiers.  
 Arkansas—P. O. Hooper, M.D., Little Rock.  
 Austria—Prof. R. Kraftt-Ebing, Vienna.  
 Belgium—Dr. Vleminckx, Brussels.  
 California—W. W. McFarlane, M.D., Agnew.  
 Colorado—Prof. J. T. Eskridge, Denver.  
 Connecticut—Dr. Henry P. Geib, Stamford.  
 Cuba—Dr. Venancio Zorilla, Havana.  
 Delaware—Gov. T. S. Biggs.  
 Denmark—Prof. Godeken, Copenhagen.  
 District of Columbia—W. W. Godding, M.D., Washington City.  
 England—Wm. L. Orange, M.D., Brighton.  
 Ecuador—Señor J. M. P. Cammano, Washington, D.C.  
 Florida—Dr. King Wally, Sanford.  
 France—Judge Barbier, Paris.  
 Georgia—Dr. Eugene Foster, Augusta.  
 Germany—Prof. D. Furstner, Heidelberg.  
 Holland—Dr. P. A. H. Sueens, Vucht.  
 Hungary—Staatsanwalt Emerich V. Havas, Buda Pesth.  
 Illinois—Dr. Milo A. McClelland, Chicago.  
 Indiana—W. B. Fletcher, M.D., Indianapolis.  
 Iowa—Dr. Jennie McCowen, Davenport.  
 Ireland—Dr. R. J. Kinkad, Galway.  
 Italy—Prof. Dr. P. Pellicani, Bologna.  
 Japan—Dr. Kensai Ikeda, Tokio.  
 Kansas—Judge Albert H. Horton, Topeka.  
 Kentucky—Dr. D. W. Yandell, Louisville.  
 Louisiana—Dr. Joseph Jones, New Orleans.  
 Maine—Judge L. A. Emery, Ellsworth.  
 Manitoba—Dr. D. Young, Selkirk.  
 Maryland—H. B. Arnold, M.D., Baltimore.  
 Massachusetts—Ed. J. Cowles, M.D., Somerville.  
 Mexico—Prof. Ramirez, Mexico.  
 Michigan—Victor C. Vaughan, Ann Arbor.  
 Minnesota—Prof. W. A. Hall, Minneapolis.  
 Missouri—Judge J. C. Normile, St. Louis.  
 Mississippi—Dr. C. A. Rice, Meriden.  
 Montreal—Daniel Clark, M.D., Toronto.  
 Nebraska—Dr. Wm. M. Knapp, Lincoln.  
 Nevada—S. M. Bishop, Reno.  
 New Brunswick—Judge A. L. Palmer, St. Johns.  
 New Hampshire—James W. Bartlett, M.D.  
 New Jersey—Hon. Geo. A. Halsey, Newark.  
 New Mexico—Gov. Bradford L. Prince.  
 New South Wales—Geo. A. Tucker, M.D.  
 New York—Mrs. M. Louise Thomas, New York City.  
 New Zealand—Prof. Frank G. Ogston, Dunedin.  
 North Carolina—F. T. Fuller, M.D., Raleigh.  
 Norway—Dr. Harold Smedal, Christiana.  
 Nova Scotia—Simon Fitch, M.D., Halifax.  
 Ohio—W. J. Scott, M.D., Cleveland.  
 Pennsylvania—Hon. Henry M. Hoyt, Philadelphia.  
 Peru—Señor F. C. C. Zegarra, Washington, D. C.  
 Portugal—Prof. Dr. Antonio Henriques da Silva, Coimbra.  
 Rhode Island—Henry E. Turner, M.D., Newport.  
 Russia—Prof. Dr. Mierzejewski, St. Petersburg.  
 Saxony—Judge de Alinge, Oberkottzow Hof.  
 Scotland—W. W. Ireland, Preston Pans, Edinburgh.  
 Serbia—Hon. Paul Savitch, Belgrade.  
 Sicily—Prof. Dr. Fernando Puglia, Messina.  
 South Carolina—Dr. Middleton Michel, Charleston.  
 Spain—Prof. Dr. Jeronimo, Granada.  
 Sweden—Prof. Dr. A. Winroth, Lund.  
 Switzerland—Prof. Dr. August Forel, Zurich.  
 Tennessee—John H. Callander, M.D., Nashville.  
 Texas—Dr. D. R. Wallace, Terrell.  
 Utah—Le Grand Young, Esq., Salt Lake.  
 Vermont—Prof. W. L. Burnap.  
 Virginia—Dr. James D. Moncreur, Williamsburg.  
 Washington Ter.—Ex-Gov. Wm. C. Squire, Seattle.  
 West Virginia—F. M. Hood, M.D., Weston.  
 Wisconsin—Dr. Jas. H. McBride, Wauwatosa.

*For Secretary,*

CLARK BELL, Esq.

*For Treasurer,*

MATTHEW D. FIELD, M.D.

*For Corresponding Secretary,*

MORITZ ELLINGER, Esq.

*For Chemist,*

PROF. H. A. MOTT, JR.

*TRUSTEES:*

*Legal,*

CHIEF JUSTICE S. M. EHRLICH.

*Medical,*

*For Librarian,*  
G. BETTINI DI MOISE, M. D.

*For Assistant Librarian,*  
THOMAS CLELAND, M. D.

*For Bacteriologist,*  
JOHN W. BYRON, M. D.

*For Microscopist,*  
PROF. MARSHALL D. EWELL, M. D.

*For Assistant Secretary,*  
EUGENE COHN, Esq.

*PERMANENT COMMISSION.*

*Legal,*  
JUDGE A. L. EMERY, of Maine.

*Medical,*  
PROF. VICTOR C. VAUGHAN, of Mich.

And that no choice had been made for Medical Trustee, or Curator and Pathologist, as no candidate had received a majority of the votes.

The Society then proceeded to ballot, and J. Clarke Thomas, M. D., was elected Curator and Pathologist, and C. P. Spratling, M. D., Trustee.

The following additional Vice-Presidents were duly elected :

Alaska—Clarence Thwing, M. D., Sitka.

Chili—Ricardo L. Trumbull, Esq., Santiago.

China—Harold P. Browett, Esq., Shanghai.

North Dakota—O. W. Archibald, M. D., Jamestown.

Indian Territory—A. M. Keener, M. D.

Oregon—Ex-Chief Justice R. S. Strahan, Portland.

Montana—Judge William H. Francis.

The President was added to the Committee of Arrangements, consisting of Judge Abram H. Dailey, Clark Bell, M. D. Field, M. D., and Dr. Bettini Di Moise, for the annual banquet, January 11, 1893.

The Society adjourned.

A. L. PALMER,

*Vice-President and Acting-President.*

CLARK BELL,

*Secretary.*

THE AMERICAN INTERNATIONAL MEDICO-  
LEGAL CONGRESS OF MEDICAL  
JURISPRUDENCE FOR  
1893.

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OFFICE OF THE PRESIDENT, 57 BROADWAY,  
NEW YORK CITY, NOVEMBER, 1892.

*To the Officers and Members of the American International  
Medico-Legal Congress and to Students of Medical Juris-  
prudence Throughout the World :*

The first session of the International Medico-Legal Congress, held in June, 1889, in the City of New York, was a pronounced success.

The bulletin of that Congress has been published, containing a large portion of its more valuable labors.

At that session a permanent organization was effected, and it was resolved to hold the second Congress on the occasion of the Columbian Centennial Exposition.

The executive officers were empowered to name Vice-Presidents from each State, Territory, Province, or Country throughout all the world, and to invite the co-operation of students and lovers of the science of medical jurisprudence in all lands in its labors.

The second session of this International Congress will be held in the city of Chicago, in the week commencing August 14, 1893, in conjunction and in co-operation with the assembling of the representatives of all the sciences that have made our century luminous with progress. It is of the utmost importance that the science of medical jurisprudence should be represented by its foremost and acknowledged



votaries and authorities at that time, in order to make its position as one of the leading sciences more decided and its influence felt for the accomplishment throughout the civilized world of the beneficial results which we hope for it. Never was there a greater opportunity offered for bringing together for mutual deliberation the great world-lights in medical and legal science and whatever progress we looked for by the co-operation of these branches of science—law, medicine, and chemistry—may be best realized on that occasion. Our civilization hinges at this time upon the advances in our knowledge of medicine, especially in prophylactics, which is brought to a higher perfection by the discoveries in bacteriology, and likewise of the principles of jurisprudence, which bring greater consideration to the treatment of the violators of the law by a study of the rights inherent in human nature. There is a silent revolution proceeding in the social organism, which may be kept under control by diving down deeper into the law that underlies the social structure and which takes the beginning from a better knowledge of the individual man, his physical and mental ability, as well as his inherent, inborn rights. Medical jurisprudence unites the line, apparently divergent, and we may be fortunate in inaugurating a new departure in the treatment of physical, mental, and social diseases that may be of great help in the future development of organized society.

The Congress will hold its session during the whole of that week, of which a detailed programme will be completed later, and men of eminence have already promised their participation, as will be seen by the list of papers announced for reading at the session. We hope and trust that this Congress of the nations will attract all who have the ambition to contribute their share to the world's treasure of culture, and we confidently look to receive your adhesion and co-operation.

The following are the officers, so far as the same have been selected :

## OFFICERS.

### PRESIDENT.

CLARK BELL, Esq., of New York.

### VICE-PRESIDENTS.

Chief-Justice Sir John C. Allen, of New Brunswick.  
Chief-Justice Edward F. Bermudez, of La.  
Gov. Biggs, of Delaware.  
Dr. Daniel Clark, of Toronto, Canada.  
Ex-Chief-Justice Noah Davis, of N. Y.  
Dr. Edward J. Doering, of Illinois.  
Prof. John J. Elwell, of Ohio.  
Judge W. H. Francis, of North Dakota.  
Dr. W. W. Godding, of Washington, D. C.  
Dr. Eugene Grissom, of N. C.  
Dr. Carl H. Horsch, of N. H.

Judge Locke E. Houston, of Miss.  
Dr. Charles H. Hughes, of Mo.  
Dr. W. W. Ireland, of Scotland.  
Prof. Robt. C. Kedzie, of Mich.  
Dr. Norman Kerr, of England.  
Dr. Jennie McCowen, of Iowa.  
Dr. Jules Morel, of Belgium.  
Dr. Connolly Norman, of Ireland.  
Prof. John J. Reese, of Pa.  
Dr. Bettincourt Rodrigues, of Portugal.  
Judge H. M. Somerville, of Ala.  
David Steward, Esq., of Maryland.  
Theo. H. Tyndale, Esq., of Mass.

The following Vice-Presidents have since been named by the President.

Dr. Cyrus K. Bartlett, for Minn.  
Prof. Dr. Benedikt, for Austria.  
Hon. C. H. Blackburn, for Ohio.  
Prof. Brouardel, for France.  
Sig. J. M. P. Cammao, for Ecuador.  
Judge Elisha Carpenter, for Conn.  
Prof. Millen Coughtrey, for N. Zealand.  
Dr. J. S. Dorsett, for Texas.  
Judge L. A. Emery, for Maine.  
Dr. I. T. Eskridge, for Colorado.  
Dr. Enrico Ferri, for Italy.  
Dr. Simon Fitch, for Nova Scotia.  
Judge C. G. Garrison for New Jersey.  
Dr. Vincent de la Guardia, for Cuba.  
Prof. Axel Key, for Sweden.  
Doctor Herman Kornfeld, for Silesia.  
Prof. Dr. Paul Kowalewski, for Russia.  
Prof. Dr. J. Maschka, for Bohemia.  
Dr. Y. R. Le Mounier, for Louisiana.

Sen. Don Rafael Montefar, for Guatemala  
Judge A. L. Palmer, for New Brunswick  
Doctor Van Persyn, for Holland.  
Hon. Jas. H. Peters, for Pr. Ed. Isl.  
T. Crisp Poole, for Queensland, Australia  
Dr. Thos. O. Powell, for Georgia.  
Hon. Hon. Han. Price, for Hayti.  
Gov. L. Bradford Prince, for N. Mexico  
Dr. H. K. Pusey, for Kentucky.  
Sen. Watson C. Squire, for Washington.  
Dr. Von Steenberg, for Denmark.  
Hon. A. M. Alvarez Taladriz, for Spain.  
Dr. Geo. A. Tucker, for New S. Wales.  
Senator Andrea Verga, for Italy.  
Prof. Dr. D. Vleminicks, for Belgium.  
Prof. Dr. Wille, for Switzerland.  
Dr. C. E. Wright, for Indiana.  
Mr. Le Grand Young, for Utah.  
Sig. F. C. C. Zagarra, for Peru.

### SECRETARY.

MORITZ ELLINGER, Esq., of New York.

### ASSISTANT SECRETARIES.

FRANK H. INGRAM, M. D., of N. Y.

W. J. LEWIS, M. D., of Conn.

The following persons have promised papers to be read at this Congress :

PROF. DR. MIKREJEWSKY, President of the Russian Society of Psychiatry of St. Petersburg, Russia. (Title to be hereafter announced.)

PROF. DR. M. BENEDICT, of Austria, Vice-President of the International Congress for Austria. (Title to be hereafter announced.)

DR. JULES MOREL, Superintendent of the Hospice Gueslain, Secretary of the Society of Mental Medicine of Belgium, Vice-President of the International Medico-Legal Congress for Belgium. (Title to be hereafter announced.)

DR. NORMAN KERR, of London, President of the British Society for

the Care of Inebriates; Vice-President of the International Congress for England. "Legal Recognition of Diseased Inebriates' Conditions as a Valid Plea, Illustrated by Recent Cases."

PROF. DR. PAUL KOVALEWSKI, Dean of the University of Kharkoff; Vice-President of the International Medico-Legal Congress for Russia. "L'Épilepsie. Psychique en Médecine Légale."

DR. DANIEL CLARK, Superintendent of the Hospital for Insane at Toronto, Ontario; Vice-President of the International Medico-Legal Congress for Ontario. "Legal and Medical Definitions in Respect to Insanity and Responsibility."

DR. SEMAL, Medical Director of the Asylum for the Insane at Monss, Belgium; President of the International Congress of Criminal Anthropology of Brussels for 1892." (Title to be hereafter announced.)

DR. CHARLES H. HUGHES, editor *Alienist and Neurologist*; Vice-President International Medico-Legal Congress. "Change of Character, Without Adequate External Indications, the Best Criterion of Determining Insanity."

PROF. DR. HERMAN KORNFELD, the eminent Alienist; Vice-President of the International Medico-Legal Congress for Silesia, of Grotkau. "Love and Insanity."

DR. THOMAS MORTON, Pennsylvania State Lunacy Commissioner. "The Operation of the Lunacy Laws of Pennsylvania."

DR. GERSHOM H. HILL, Medical Superintendent of the Iowa Hospital for the Insane, Independence, Iowa. "How Best to Dispose of the Criminal Insane."

DR. S. V. CLEVINGER, alienist and author, of Chicago, Ill. "Testamentary Capacity."

PROF. MARSHALL D. EWELL, Chairman of Committee on Medical Jurisprudence, World's Congress Auxilliary; Ex-President American Society Microscopists. (Title paper to be hereafter announced.)

EX-JUDGE H. M. SOMERVILLE, Supreme Court of Alabama, President of the New York Medico-Legal Society. (Title of paper to be hereafter announced.)

MORITZ ELLINGER, ESQ., Secretary International Medico-Legal Congress; Cor. Secretary New York Medico-Legal Society. "Anarchism, from a Philosophical and Medico-Legal Standpoint."

DR. FRANK P. NORBURY, Assistant Physician Illinois Central Hospital for Insane, Jacksonville, Ill. "The Medico-Legal Consideration of Insanity following Traumatism."

PROF. EDWARD PAYSON THWING, M. D., of New York. (Title to be hereafter announced.)

A. WOOD RENTON, ESQ., Barrister at Law, London. (Title paper to be hereafter announced.)

J. EDWARD POTTER, M. D., of New Jersey. (Title of paper to be hereafter announced.)

EX-JUDGE ABRAM H. DAILEY, of Brooklyn, N. Y. "Hypnotism in Medical Jurisprudence."

HENRY LEFFMAN, M. D., Medical Jurisprudence Society of Philadelphia, Pa. (Title to be announced later.)

MILTON BROWN, ESQ., Counsellor at Law of the Bar of Kansas. "Increase of Insanity. Are the Governments of Man Responsible, and if So, How Far?"

T. GOLD FROST, ESQ., of the Minnesota Bar. "Medico-Legal Jurisprudence, Its Scope and Limitations."

R. S. GUERNSEY, ESQ., of the New York Bar. (Title of paper to be announced later.)

DWIGHT S. MOORE, M. D., Assistant Superintendent North Dakota State Hospital for Insane, Jamestown. (Title to be announced later.)

WILLIAM B. FLETCHER, M. D., eminent alienist, late Superintendent of Indiana State Hospital for Insane. "Establishment of Houses of Detention for Alleged Insane prior to Commitment."

HON. THEODORE H. TYNDALE, of the Boston Bar. "National Boards of Health; Its True Scope and Powers."

DR. T. D. CROTHERS, editor *Journal of Inebriety*; Superintendent Walnut Hill Retreat for Inebriates. "Inebriate Criminal; Their Medico-Legal Relations."

FRANK H. INGRAM, M. D., Secretary International Medico-Legal Congress. (Title announced later.)

DR. U. O. B. WINGATE, Health Commissioner, Milwaukee, Wis. (Title announced later.)

ALBERT BACH, ESQ., of the New York bar; Vice-President New York Medico-Legal Society. "The True Status of Expert Evidence."

DR. F. E. DANIELS—Editor *Daniels's Medical Journal*. (Title announced later.)

DR. JOSEPH JONES, of New Orleans, La. (Title announced later.)

EX-CHIEF JUSTICE ROBERT S. STRAHAN, of the Supreme Court of Oregon. (Title to be announced later.)

W. THORNTON PARKER, M. D., Prof. Medical Jurisprudence, College Physicians and Surgeons of Chicago, Ill.; late medical examiner in Rhode Island. "The Care of the Insane."

ALFRED E. REGENSBERGER, M. D., San Francisco, Cal. "The Remuneration of Medical Experts in Courts of Law."

C. VAN D. CHENOWETH, of New York. "The American College in Its Relation to Students' Sureties."

HUBBARD W. MITCHELL, M. D., of New York City. (Title to be announced later.)

PROF. R. C. KEDZIE, of the Michigan Agricultural College; Vice-President of the Congress—Lansing. "Determining the Line of Force in Fracture of Glass."

DR. JOHN ARSCHAGOUNI, of Constantinople, Turkey. "The Care and Treatment of the Insane in Turkey."

PROF. J. T. ESKRIDGE, Denver, Colorado. "The Diagnosis of Amnesia."

J. T. SEARCEY, M. D., Superintendent of the Alabama State Hospital for Insane, Tuscaloosa, Ala. "The Evolution of the Moral Sense."

M. LOUISE THOMAS, Vice-President Medico-Legal Society. (Title to be hereafter announced.)

CHARLES A. BARNARD, M. D., President of the Medico-Legal Society of Rhode Island. "The Legal Responsibility of Drunkards."

DR. A. E. OSBORNE, Superintendent California Home for Feeble-Minded Children. (Title to be announced hereafter.)

W. S. WATSON, M. D., Matteawan, N. Y. "The Relation of Opium Addiction to Public Health and Morals; Needed Legislation."

DR. A. H. SIMONTON, Cincinnati, Ohio. "The Medico-Legal Importance of the Prevention of Ornamental and Plastic Adhesion in Abdominal Surgery; with the Author's Method of Prevention."

CLARK BELL, ESQ., President of the Congress. (Title to be hereafter announced.)

Additional names, when received, and titles of papers will be announced from time to time in the Medico-Legal Journal.

The Congress has received the cordial sympathy of the government of the United States in its work, as the subjoined correspondence with Hon. James G. Blaine, when Secretary of State, will show. Written when the expectation was that the Columbian Exposition would be held in 1892, and before the postponement of the date of session was decided upon :

OFFICE OF THE PRESIDENT OF THE MEDICO-LEGAL SOCIETY  
OF NEW YORK, NO. 57 BROADWAY, N. Y.

March 31st, 1890.

*Hon. James G. Blaine, Secretary of State, Washington, D. C.,*

DEAR SIR :—I have the honor to enclose a circular we are sending in the English, French, German, and Spanish languages to the various countries of the world, asking co-operation with the International Medico-Legal Congress, which will be held in 1892 in this country.

Its first session was held in June, 1889, of which I send the preliminary transactions and roll of delegates.

The French circular enclosed shows the officers at this moment, and as Vice-Presidents for the various countries are announced they will be added to those already appointed. Inspection of the names of the eminent men

who have already lent their names to this project emboldens me to request the countenance of the American Government to this movement in aid of this science.

Among foreign peoples, the knowledge of the approval of the Home Government is of vast consequence to the success of scientific endeavor.

The aid lent by the French Government to the Scientific Congresses in Paris last year gave an enormous impetus and importance to that wonderful success, which added new lustre to the glory of France.

We do not desire any pecuniary assistance from the Government of the United States.

The letters you so kindly sent me last summer were of enormous value to me, in interesting eminent men of science in the countries of Europe in the movement.

Such a letter of sympathy, with the objects and purposes of our present endeavor, as you can give, will, I think, be of great value, and will in many countries, especially the Spanish-speaking countries on this continent, be of commanding importance.

I am, sir, with high personal regard,

Very faithfully yours,

CLARK BELL.

DEPARTMENT OF STATE, WASHINGTON, April 17, 1890.

*Clark Bell, Esq., President of the Medico-Legal Society, No. 57 Broadway, New York City,*

DEAR SIR:—I have received your letter of the 31st ultimo, enclosing copies of circulars which you are sending to the various countries of the world, inviting co-operation for the Congress which will be convened in 1892 in the United States for the discussion of medical jurisprudence.

The importance of such a gathering as you propose cannot, it would seem, be overestimated. The intelligent discussion of scientific questions, especially those which so closely affect the human family, by a body of gentlemen learned in medico-legal science, must prove of especial value, and should be worthy of every effort which has for its mission the amelioration of the condition of mankind.

My individual sympathy in the objects and purposes of your conference is very great, and I trust that the results of such a meeting as you propose may correspond to the aims you have in view, as I have no doubt they will.

I am, dear sir, very truly yours,

JAMES G. BLAINE.

AUXILIARY COMMITTEE APPOINTED BY THE MEDICO-LEGAL SOCIETY OF NEW YORK.

CLARK BELL, ESQ., Chairman, of New York.

Dr. Milo A. McClelland, of Illinois.

Dr. W. B. Fletcher, of Indiana.

Judge J. C. Normile, of Missouri.

Chief Justice Albert H. Horton, of Kansas.

Prof. Victor C. Vaughan, of Michigan.

Dr. W. H. Haviland, of Montana.

This committee was appointed in March, 1892.

Moritz Ellinger, Esq., of New York.

Judge H. M. Somerville, of Alabama.

Judge E. S. Hammond, of Tennessee.

Chief Justice E. E. Bermudez, of Louisiana.

Prof. W. A. Hall, of Minnesota.

Chief Justice Robert S. Strahan, of Oregon.

AUXILIARY COMMITTEE APPOINTED BY THE MEDICO-LEGAL SOCIETY OF DENVER, COLORADO.

Dr. H. W. McLanethlin, Denver.

Dr. Henry Sewall, Denver.

Dr. H. T. Pershing, Denver.

Hon. H. E. Herrington.

Prof. J. T. Eskridge.

The various medico-legal societies of the world will be also asked to name auxiliary committees to co-operate in the labors of the Congress. These committees will be announced as named in the Medico-Legal Journal. All home and foreign bodies and associations interested in the advancement of medical jurisprudence, or its allied sciences, are cordially invited to send delegates to this Congress, who will be elected to seats upon the floor and to take part in the discussions.

The preliminary roll of members of the Congress is as follows :

Abbott, Austin, Esq., New York.  
 Abercrombie, Dr. John, London.  
 Ababarnel, Jacob, Esq., New York.  
 Alien, Sir John C., Fredericton, N. B.  
 Archibald, Dr. O. W., Dakota.  
 Arnoux, Judge Wm. H., N. Y.  
 Bach, Albert, Esq., New York.  
 Backus, Dr. O., Rochester, N. Y.  
 Bacon, A. O., Esq., Savannah, Ga.  
 Baker, Dr. Henry B., Michigan.  
 Ball, Prof. Dr. Benj., France.  
 Baner, Dr. Wm. L., New York.  
 Barbier, Judge, France.  
 Barner, W. A., Esq.  
 Barrister, Dr. H. M., Chicago.  
 Bartlett, Cyrus K., M. D., Minn.  
 Bartlett, Jas. W., Dover, N. H.  
 Barton, Clara, Washington, D. C.  
 Bauduy, Prof. J. K., St. Louis, Mo.  
 Bell, Clark, Esq., New York.  
 Bell, W. H. S., Esq., South Africa.  
 Benedickt, Prof. Dr., Vienna, Austria.  
 Bennett, Alice, M. D., Pa.  
 Bentzen, Dr. G. E., Norway.  
 Berghelm, Dr. L., New York.  
 Bermudez, Chief Justice, Louisiana, La.  
 Biggs, Gov., Delaware.  
 Billings, Prof. F. S., Neb.  
 Bianchi, Dr. Leonardo, Italy.  
 Blandford, Dr. G. Fielding, London.  
 Bleyer, J. Mount, M. D., New York.  
 Boardman, C. H., M. D., Bridgeton, N. J.  
 Bond, Dr. G. F. M., New York.  
 Boone, Dr. H. W., Shanghai, China.  
 Bradley, Dr. E. N., New York.  
 Brouardel, Prof., Paris, France.  
 Brouett, Harold E., Esq., Shanghai, China.  
 Brown, Dr. D. R., Chicago.  
 Brown, Harold P., Esq., New York.  
 Brown, Judge Addison, N. Y.  
 Brown, Julius, Esq., Savannah, Ga.  
 Bryce, P., M. D., Ala.  
 Buck, J. D., M. D., Cincinnati, Ohio.  
 Buckham, Thos. R., M. D., Mich.  
 Buckmaster, S. B., M. D., Wisconsin.  
 Burge, J. Hobart, M. D., Brooklyn.  
 Burnett, Mary W., M. D., Chicago, Ill.  
 Burrell, D. R., M. D., N. Y.  
 Butler, John S., M. D., Conn.  
 Buttolph, Dr. H. A., N. J.  
 Buyer, Dr. J. C., Pittsburgh, Pa.  
 Callender, Dr. J. H., Nashville, Tenn.  
 Carleton, Henry Guy, Esq., New York.  
 Carpenter, E. N., M. D., New York.  
 Carroll, Alfred D., M. D., 30 W. 59 St., N. Y.  
 Chamberlain, E. W., Esq., 120 Broadway.  
 Chapin, Dr. John B., Phila., Pa.  
 Charpentier, Prof. Dr., Paris, France.  
 Chase, Dr. Walter B., Brooklyn, N. Y.  
 Clark, Dr. Daniel, Toronto, Canada.  
 Clark, Prof. S. Tucker, N. Y.  
 Cleland, Thos., M. D., New York.  
 Clouston, Dr. T. S., Scotland.  
 Clymer, Mrs. E. M., 148 E. 18th St., N. Y.  
 Cobb, O. F., M. D., New York.  
 Coleman, Dr. Henry, Auburn, N. Y.  
 Coughtry, Millen, Esq., N. Z.  
 Contaigne, Dr. Henry, Lyons, France.  
 Contreras, Senor Don Manuel, Mexico.  
 Cook, Dr. E. G., N. Y.  
 Cowen, Dr. Holland.  
 Cowles, Ed. J., M. D., Massachusetts.  
 Crothers, T. D., M. D., Hartford, Conn.  
 Crosti, Dr. Domini, Lucatecas, Mexico.  
 Currier, Dr. D. M., Newport, R. I.  
 Curtis, Judge Geo. M., New York.  
 Davies, Wm. G., Esq., New York.  
 Davis, Judge Noah, New York.  
 De Kraft, Dr. Wm., New York.  
 De la Guardia, Dr. Vicente, Cuba.  
 Di Moise, Dr. G. Bettini, New York.  
 Dent, Emmett C., M. D., New York.  
 Depew, Hon. C. M., New York.  
 Desguin, Dr. Victor, Belgium.  
 Desrosiers, H. E., M. D., Montreal, Can.  
 Dexter, Dr. B. F., New York.  
 Dillon, Judge John F., New York.  
 Dittenhoefer, Judge A. J., New York.  
 Doering, Ed. J., M. D., Chicago, Ill.  
 Donlin, Dr. P. E., N. Y.  
 Doremus, C. A., M. D., New York.  
 Doremus, Prof. R. O., New York.  
 Dorsett, Dr. J. S., Austin, Texas.  
 Dragendorff, Dr. Geo., Dorpat, Russia.  
 Drake, A. N., M. D., Kansas.  
 Draper, Jos., M. D., Vermont.  
 Drayton, Henry S., M. D., New York.  
 Drewry, W. F., M. D., Virginia.  
 Du Bignon, F. G., Savannah, Ga.  
 Ducey, Father Thos. J., N. Y.  
 Dunavant, H. C., M. D., Arkansas.  
 Durrell, T. M., Somerville, Mass.  
 Earle, Dr. Pliny, Mass.  
 Eastman, T. C., Esq., New York.  
 Ellinger, M., Esq., New York.  
 Elwell, Prof. John J., Ohio.  
 Emery, Judge L. A., Maine.  
 Erlenmeyer, Dr. Alhnott, Germany.  
 Eskridge, Dr. J. T., Colorado.  
 Ewell, Dr., M. D., Ill.  
 Falret, Dr. Paris, France.  
 Fanton, Hull, Esq., N. Y.  
 Fay, Geo. W., Esq., Demopolis, Ala.  
 Fellows, Hon. J. R., New York.  
 Fernandez, A. M., M. D., New York.  
 Ferri, Dr. Enrico, Italy.  
 Field, Dr. M. D., New York.  
 Field, Hon. David Dudley, N. Y.  
 Finn, Dr. C. G. J., Hempstead, L. I.  
 Fisher, Wm. A., Esq., Baltimore.  
 Fitch, Simon, M. D., Halifax, Nova Scotia.  
 Fleming, Dr. W. M., N. Y.  
 Fletcher, Dr. W. B., Ind.  
 Formad, Prof. H. F., Phila., Pa.  
 Foster, Roger, Esq., New York.  
 Francis, Judge W. S., Dakota.  
 Frost, T. Gold, Esq., Minn.

- Furstner, Prof. Dr., Germany.  
 Garofolo, Prof. Dr., Naples, Italy.  
 Garrison, Judge C. G., N. Y.  
 Gerry, E. T., New York.  
 Gibbs, Dr. J. W., New York.  
 Godding, Dr. W. W., Washington, D. C.  
 Golder, Dr. R., M. D., N. Y.  
 Gordon, James, M. D., Nevada, Mo.  
 Grannis, Mrs. E. B., N. Y.  
 Green, Gov. R. S., New Jersey.  
 Grimm, J. Hugo, Esq., St. Louis, Mo.  
 Grissom, Dr. Eugene, N. C.  
 Guernsey, R. S., Esq., New York.  
 Gundy, Judge A. A.  
 Gundry, Dr. Richard, M. D.  
 Guth, M. S., M. D., Pa.  
 Hall, Dr. Lucy M., New York.  
 Hall, Prof. W. A., Minnesota.  
 Hammond, Judge W. R., Alabama.  
 Harris, Hon. J. M., Md.  
 Hart, Ernest, Esq., London.  
 Harvey, Prof. C. A., N. Y.  
 Haviland, Dr. W. H., Minn.  
 Heger, Dr. P., Brussels, Belgium.  
 Hepburn, S., Jr., Esq., Pa.  
 Higgins, Dr. F. W., N. Y.  
 Hill, G. H., M. D., Iowa.  
 Hillyer, Judge Geo., Atlanta, Ga.  
 Hitchcock, Harlynd.  
 Hogg, Dr. Jabez, London.  
 Holcome, Dr. Wm. H., New Orleans, La.  
 Holcombe, Dr. W. F., New York.  
 Horsch, C. H., M. D., Dover, N. H.  
 Hourteloup, Judge, France.  
 Houston, Judge Locke E., Miss.  
 Hoyt, Hon. Henry M., Pa.  
 Hughes, Chas. S., M. D., St. Louis, Mo.  
 Husband, Prof. H. Aubrey, Manitoba.  
 Hutchins, Alex., M. D., Brooklyn, N. Y.  
 Hutchinson, W. M., M. D., Brooklyn, N. Y.  
 Hyatt, Judge S. B., New York.  
 Ill. State Board of Health, Springfield, Ill.  
 Ingersoll, Col. Robt. G., N. Y.  
 Ingram, F. H., M. D., New York.  
 Ireland, Dr. W. W., Scotland.  
 Isaac, Judge M. S., New York.  
 James, Col. Ed., New York.  
 James, Prof. Frank L., Neb.  
 Johnston, Dr. F. N., New Brighton, N. Y.  
 Jones, Hon. Ed. F., N. Y.  
 Jones, Joseph, M. D., La.  
 Jones, Rev. Lewis T., N. J.  
 Jones, S. Preston, M. D., N. J.  
 Jordan, Daniel, E. q., Fredericton, N. B.  
 Kedzie, Prof. Robt. C., Mich.  
 Kerr, Dr. Norman, London, Eng.  
 Key, Prof. Axel., Sweden.  
 Kellogg, Dr. T. H., N. Y.  
 Kiernan, James G., M. D., Chicago, Ill.  
 Kilbourne, Dr. E. J., Ill.  
 Kinkead, Dr. R. J., Galway, Ireland.  
 Knight, Dr. Geo. H., Lakeville, Conn.  
 Kornfeld, Herman, M. D., Grotkau, Silesia.  
 Kowalewski, Prof. Dr. Paul, Russia.  
 Kraft, Ebmg, Prof. Dr., Austria.  
 La Cassagne, Dr., Lyons, France.  
 Lamb, Martha, J., New York.  
 Lambert, John, M. D., Salem, N. Y.  
 Lebrado, Joaquin G., M. D., Cuba.  
 Lee, Benj., M. D., Phila., Pa.  
 Lehman, Prof. J., Denmark.  
 Le Monnier, Dr. Y. R., New Orleans, La.  
 Letchworth, W. P., Esq., Glen Iris, N. Y.  
 Lewis, W. J., M. D., Conn.  
 Library, Court of Appeals, Syracuse, N. Y.  
 Lima, Souza, M. D., Brazil.  
 Lindorme, C. A. F., M. D., Fla.  
 Loewy, Benno, Esq., New York.  
 Lovell, Mrs., New York.  
 Luff, Prof. Dr. Arthur P., England.  
 Lutaud, Dr., Paris.  
 Lyddy, Jas. M., Esq., New York.  
 MacConnal, Dr. J. H., Poughkeepsie, N. Y.  
 Macdonald, Dr. E. A., N. Y.  
 Magnan, Dr., Paris.  
 Maine, Dr. F. E., Auburn, New York.  
 Mann, Dr. F. C., New York.  
 Mann, Dr. John, N. Y.  
 Maschka, Prof. Dr. J., Bohemia.  
 Mather, Dr. Ed. D., England.  
 McAdam, Judge D., New York.  
 McClelland, Dr. M. A., Ill.  
 McCowen, Dr. Jennie, Iowa.  
 McIntyre, W. H., Esq., New York.  
 Mercantile Library Ass'n, Astor Place,  
 Messemmer, M. J. B., M. D., New York.  
 Michael, Middleton, M. D., S. Carolina.  
 Millard, Orson, M. D., Flint, Mich.  
 Miller, Frank H., Esq., Savannah, Ga.  
 Miller, Dr. Geo. B., Pa.  
 Milne, Dr. Chas. S., New York.  
 Mitchell, J. Murray, Esq., New York.  
 Moncure, Dr. Jas. D., Va.  
 Monteros, Dr. Jose, Guatemala, S. A.  
 Montgomery, Judge M. W., Washington  
 Morel, Jules, M. D., Ghent, Belgium.  
 Moshier, Dr. E. M., Brooklyn, N. Y.  
 Motet, Dr., France.  
 Mott, Prof. H. A., Jr., N. Y.  
 Mulligan, Dr. E. W., Rochester, N. Y.  
 Nelson, Wm., Esq., N. J.  
 Noble, Dr. C. W., Cleveland, Ohio.  
 Nordeman, H. F., M. D., N. Y.  
 Norman, Dr. Connolly, Ireland.  
 Normile, Judge, St. Louis, Mo.  
 North, Jas. M., Esq., Boulder, Col.  
 O'Dea, Dr. J. J., N. Y.  
 Ogston, Prof. Frank, N. Z.  
 O'Neill, Wm. L., New York.  
 Orme, Dr. H. L., Cal.  
 Owen, Dr. May, Brooklyn, N. Y.  
 Paddock, Dr. Frank K., Mass.  
 Paine, Dr. N. E., Westboro, Mass.  
 Palmer, Dr. W. H., R. I.  
 Palmer, Judge A. L., Fredericton, N. B.  
 Parker, Wm. James, M. D., Tennessee.  
 Parsons, R. L., M. D., N. Y.  
 Peet, Dr. Isaac Lewis, New York.  
 Peixotto, Benj. F., Esq., N. Y.  
 Penard, Dr. Louis, France.  
 Perez, Ed. M., M. D., Buenos Ayres, S. A.  
 Peters, Dr. Supt. Colony at Gheel, Belgium.  
 Peterson, F. M. D., New York.  
 Phillips, Dr. J. W., Burn Brae, Pa.  
 Pinkham, Dr. J. G., Mass.  
 Pompe, Dr. L. H., Holland.  
 Powell, Dr. Thos. O., Ga.  
 Pratt, Joseph Calvin E., N. Y.  
 Prentice, Col. Wm. P., New York.  
 Presby, Silas D., M. D., Taunton, Mass.  
 Pusey, H. K., M. D., Kentucky.  
 Quinby, Dr. Isaac N., New Jersey.  
 Rauch, Dr. J. H., Ill.  
 Reese, Prof. J. J., Pa.  
 Renton, A. Wood, London, England.  
 Rice, Dr. C. A., Miss.  
 Richardson, Dr. H. L., New York.  
 Ringold, Jas. T., Esq., Maryland.  
 Ritti, Dr. A., France.  
 Roberts, J. D., M. D., N. C.  
 Robinson, Henry, Esq., N. H.  
 Rochester, Thos. M., M. D., B'klyn, N. Y.  
 Rodrigues, Dr. Bettincourt, Portugal.  
 Roe, Dr. J. O., Rochester, N. Y.  
 Root, Ed. K., M. D., Conn.  
 Rumells, Dr. O. S., Indianapolis, Ind.  
 Russell, F. W., M. D., Mass.  
 Ruysch, Dr., The Hague, Holland.  
 Sale, Dr. E. P., Mass.  
 Sawyer, Dr. A. J., Monroe, Mich.  
 Schultz, S. S., M. D., Danville, Pa.  
 Semal, Dr., Mons, Belgium.



- Shepard, Chas. H., M. D., B'klyn, N. Y.  
 Shepard, E. F., Esq., New York.  
 Smith, C. Bainbrige, Esq., N. Y.  
 Smith, Nelson, Esq., N. Y.  
 Smith, Q. Cincinnati, M. D., Texas.  
 Smith, R. E., M. D., Missouri.  
 Smith, S. W., M. D., New York.  
 Somerville, Judge H. M., Alabama.  
 Spadaro, Dr. C., Italy.  
 Squire, Ex-Gov. W. C., Wash'ton Ter.  
 Stackpole, Paul A., M. D., N. H.  
 Stanton, Dr. J. V., New York.  
 Stark, Henry S., M. D., N. Y.  
 Stearns, H. P., M. D., Hartford, Conn.  
 Steenberg, Dr., Denmark.  
 Steeves, J. T., M. D., New Brunswick.  
 Stephen Smith, M. D., New York.  
 Stern, Dr. Heinrich, N. Y.  
 Sterne, Simon, New York.  
 Stevenson, W. G., M. D., New York.  
 Stewart, Judge D., Baltimore, Md.  
 Stillings, Dr. F. A., N. H.  
 Stillman, Dr. C. F., New York.  
 Strahan, S. A. K., Northampton, Eng.  
 Stratton, Morris H., Esq., N. J.  
 Strauss, Oscar, Esq., N. Y.  
 Taladriz, Hon. A. M. Alvarez, Spain.  
 Talcott, Dr. Selden H., N. Y.  
 Tallmage, Rev. T. DeWitt., Brooklyn.  
 Taylor, John M., Esq., Conn.  
 Taylor, Dr. Philip K., R. I.  
 Taylor, Dr. W. H., Mass.  
 Thomas, Julia., New York.  
 Thomas, Mrs. M. Louise, New York.  
 Thwing, Ed. P., M. D., New York.  
 Tompkins, Henry C., M. D., Ala.  
 Tourletto, Dr. L. A., Utica, N. Y.  
 Towne, Dr. Geo. D., N. H.  
 Traver, Dr. R. D., Troy, N. Y.  
 Tucker, Dr. Geo. A., New South Wales.  
 Tucker, Rev. Wm., Ohio.  
 Turner, Henry E., M. D., R. I.  
 Tuttle, Dr. W. L., N. Y.  
 Brown, Milton, Esq., Kansas.  
 Strahan, Ex-Chief Justice R. S., Oregon.  
 Parker, W. Thornton, M. D., Ill.  
 Chenoweth C. Van D., N. Y.  
 Arschagouni, Dr. John R., Turkey.  
 Hedonius, Prof. Dr. P., Upsala, Sweden.  
 Halbertsma, Dr. J. C., Voorburgh TeVucht, Holland.  
 Listz, Prof. Franz von Halle, Germany.  
 Upstrom, Judge Wilhelm, Stockholm, Sweden.  
 Moore, Dwight S., M. D., N. Dakota.  
 Dailey, Ex-Judge Abra. H., Brooklyn, N. Y.  
 Clevenger, S. V., M. D., Philadelphia, Pa.  
 Morton, Dr. Thomas G., Phila., Pa.  
 Ewell, Prof. Marshall D., Ill.  
 Tracy, Dr. Ira O., Brooklyn, N. Y.  
 Simonton, A. H., M. D., Cin.  
 Leffman, Henry, M. D., Pa.  
 Dewey, Richard, M. D., Ill.  
 Burnett, S. Grover, M. D., Mo.  
 Twitchell, Dr. Geo. B., N. H.  
 Tyndale, Theo. H., Esq., Boston, Mass.  
 Ullman, Hon. H. Charles, Col.  
 Valentine, F. C., M. D., N. Y.  
 Vanderburgh, Dr. E. P., Buffalo.  
 Vanderveer, Dr. A., N. Y.  
 Van Persyn, Dr., Holland.  
 Vaughan, Prof. Victor, C. Ann Harbor, Mich.  
 Verga, Prof. Senator Andrea, Italy.  
 Vlemineckx, Prof. Dr. D., Belgium.  
 Von Klein, Dr. Carl H., Ohio.  
 Wait, W. B., M. D., New York.  
 Waite, Herschell, M. D., N. Y.  
 Wallace, Dr. C. H., St. Josephs, Mo.  
 Wallace, Dr. D. R., Texas.  
 Walsh, Dr. J. F., Camden, N. J.  
 Walter, J. F., Esq., New York.  
 Ward, J. W., M. D., Trenton, N. J.  
 Ward, Dr. W. A., Conneaut, Ohio.  
 Wardner, Dr. Horace, Ill.  
 Waterman, Dr. Sigismund, N. Y.  
 Westbrook, B. F., M. D., Brooklyn, N. Y.  
 Westbrook, Judge R. B., Pennsylvania.  
 Weston, Dr. E. B., Chicago, Ill.  
 White, Dr. E. D., New Orleans, La.  
 Whitehouse, Dr. E. E., Batavia, Ill.  
 Wight, Dr. J. S., N. Y.  
 Wilcox, Ansley, Buffalo, N. Y.  
 Wilcox, Geo. D., M. D., Rhode Island.  
 Williamson, Dr. A. P., Middleton, N. Y.  
 Wille, Prof. Dr. L., Switzerland.  
 Wise, Hon. John S., N. Y.  
 Wise, P. M., M. D., Willard, N. Y.  
 Wolff, Arthur S., M. D., Texas.  
 Wood, O. J., M. D., New York.  
 Woods, Dr. Justus O., N. Y.  
 Wood, Dr. W. D., Jamaica, L. I., N. Y.  
 Wright, Dr. Amelia, New York.  
 Wright, T. L., M. D., Ohio.  
 Wyly, Dr. King, Fla.  
 Yandeli, Dr. D. W., Ky.  
 Young, R. E., M. D., Mo.  
 Young, D. M. D., Selkirk, Man.  
 Osborne, Dr. A. E., Cal.  
 Wingate, Dr. U. O. B., Wis.  
 Regensberger, Dr. A. E., Cal.  
 Mitchell, Hubbard W., M. D., N. Y.  
 Searcey, Dr. J. T., Ala.  
 Leffman, Henry, M. D., Phila., Pa.  
 Potter, J. Edward, M. D., Newark, N. Y.  
 Wingate, U. O. B., M. D., Wis.  
 Field, Matt. D., New York.  
 Norbury, Frank P., M. D., Danville, Pa.  
 Brown, Milton, Esq., Kansas.  
 Zegarra, F. C. C., Peruvian Legation, Washington, D. C.  
 Keener, A. M., M. D., Indian Ter.  
 Fletcher, W. B., M. D., Ind.  
 Daniels, F. E., M. D., Texas.  
 Norbury, Dr. Frank P., Ill.  
 Potter, Dr. Edward, N. Y.  
 Barnard, Chas. A., M. D., Rhode Island.  
 Berrillon, Paul, M. D., Paris.

A committee will formulate and announce the order of the proceedings, the subjects to be discussed, the arrangement and classification of the papers to be read, and the discussions thereon, which will be sent to all members and published in friendly journals. Arrangements will be made for reduced rates of travel within the United States as far as possible with the Trans-Atlantic lines of steamers, and for the reception and entertainment of delegates in Chicago, of which detailed announcements will be made hereafter.

The enrolling fee will be \$3.

Members of the Congress who receive this circular who have not sent the enrolling fee, and all who enroll, will please remit the same to the President or Secretary, to aid in defraying the preliminary expenditures.

This circular will be sent to some to whom the President is unable to address personally. It is intended as a personal request to those who receive it to enroll in the Congress, and to contribute papers to be read at the session. If unable to attend, authors of papers can be assured that suitable arrangements will be made for the proper presentation of the papers.

The officers of the Congress and member are requested to bring the subject to the attention of all whom they believe take an interest in the advancement of Forensic Medicine.

Those who contribute papers or unite with the Congress will communicate with the undersigned, and forward their names and addresses.

MORITZ ELLINGER,	CLARK BELL,
<i>Secretary.</i>	<i>President.</i>

## EDITORIAL.

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### STATE BOARDS OF CHARITIES.

Hon. William P. Letchworth, formerly President of the New York State Board of Charities, read a report, as Chairman of the Committee on this topic, before the recent Denver Conference, held June, 1892, from which I make a few extracts:

#### WOMEN AS STATE BOARDS.

As to women being represented on State Boards of Charities, my own opinion is in favor of their appointment. There are certain lines of inquiry which they can conduct with more propriety than men, and they are able to exchange confidences with those of their own sex whose troubles might otherwise be unrevealed. In the case of children under public care, it seems peculiarly fitting that motherly instincts should be permitted to reach the many that are orphaned and deserted. The knowledge of women in domestic affairs and their experience in the care of the sick give value to their inspections and weight to their advice. The fears entertained by some that women would not be able to cope with the sometimes revolting tasks that fall to the members of a State Board of Charities have not been realized in New York. On the contrary, the New York Board had to confess its indebtedness to women commissioners for most valuable services. The appointment of women was regarded at the outset as a great innovation in New York State. I well remember the look of dismay depicted on the countenances of some of the graver members of the Board when an earnest, able, and accomplished woman entered the Board room at Albany with a pleasant greeting, and took her seat among us for the first time with as much complacency and self-possession as though she had been a commissioner for years. When Governor Tilden was asked at an after-dinner table talk how he came to appoint a woman on a State commission, he replied that he did so "in order to plant a sprig of grace in the barren wastes of the State Board of Charities." Those who know the estimable lady whom he appointed and the dry commonplace nature of our Board work will realize the appropriateness of the figure. I imagine that the members generally of those Boards in which women hold membership approve of their appointment.

#### CHILDREN AS CRIMINALS.

Juvenile offenders should never be placed in jails either before or after trial. They should have a separate hearing before the court, and should

be there represented by a State Agent, whose duty it should be to protect the interests of the child during the trial and afterwards, in the manner exemplified by the Michigan laws of 1873 and 1875.

#### CARE OF THE INSANE.

It has been demonstrated in New York, Massachusetts, and elsewhere that the chronic insane can be humanely and very economically cared for, and the maximum percentage of cures reached in special inexpensive asylums, on large farms, under independent boards of management. In large mixed asylums the percentage of cures is not so great as the combined average of cures in separate hospitals for the acute and well-conducted asylums for the chronic insane. The dominant idea should be the cure of the insane in the acute period; and our hospitals for this purpose should be small, and in every way constructed, supplied, and administered on the highest therapeutic principles. \* \* \* We must boldly protest against the seemingly irresistible tendency to build up enormous mixed asylums out of what were originally designed for moderate-sized curative hospitals. Nor must we delude ourselves with the expectation that by simply changing the name of an institution from an asylum to a hospital we thereby alter its real character. \* \* \* The building of palatial edifices for the dependent classes, to gratify local and architectural pride, should be condemned, as the expenditure for such decreases legislative appropriations for needful charitable objects; and the consequence is that while some are extravagantly provided for, many remain to suffer under very unsatisfactory conditions.

Mr. Letchworth's long experience, his well-known philanthropy, goodness of heart, and purity of purpose, entitles his opinions to great respect.

There can be no doubt of the correctness of his views as to the usefulness of women on these boards, and the same is true of many other boards than those he names. The danger lies in improper selections.

Mistakes of this character are more serious in their results than they would be if the utility and usefulness of women in such positions was more generally conceded.

One bad appointment seems to react on the cause with undue severity, a notable example of which is furnished by the recent refusal of the Mayor of New York City to reappoint a woman of great usefulness and universally acknowledged fitness, due to the grave mistakes of others in the exercise of official duties.

I have known a Board of Managers to change from women as physicians, after years of successful and unobjectionable service, on account of the misconduct of one bad woman. Public sentiment seems to deal unjustly with women in such cases.

The present public weakness for costly, large institutions for the insane is as unwise as it is unaccountable. Perhaps it may be due to a species of rivalry among States to equal or surpass each other. There can be no doubt that it is vicious as a system.

If New York, Massachusetts, and New Jersey, for example, had some of the millions thus recklessly squandered in pretentious and costly buildings to use on the lines indicated by Mr. Letchworth, enormous gain would come, not alone for the States, but to the insane themselves.

I commend to the public conscience what he says about children as criminals.

There is no justification under our civilization for placing a child in a jail.

It would be a rare case where the crime of the State in thus blighting a life at its beginning, would not be greater and more injurious in its consequential results than the offense imputed to the unfortunate child.

Some other refuge than jails or almshouses should be found for the children of want, crime, and wretchedness in our country in this century.

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### PSYCHOLOGY.

This Journal will devote some space to this subject, as a new feature in the forthcoming numbers.

Mrs. C. Van D. Chenoweth, of the editorial staff, will occasionally contribute to this department, and the field will embrace the broadest limit of scientific investigation.

Members of the Medico-Legal Society, and all others interested in this subject, are invited to unite with the Section of Psychology, of which Mrs. Van D. Chenoweth will assume the Chairmanship, and Clark Bell, Esq., will act as Secretary.

This Section will not be limited to members of the Society, but any one is eligible to membership who is approved by the Executive Committee of the Section.

The enrolling fee is, for members of the Medico-Legal Society, \$1.50, which will be the annual dues for members of the Society to the Section, payable January 1st in each year, in advance. To non-members of the Society the annual dues will be \$5, payable also in advance.

Full details can be had by addressing the Chairman or Secretary of the Section, care of this Journal.

It is proposed to investigate every branch of psychological and psychical inquiry by organized committees, and to make an annual report to the Society and preliminary reports, if thought expedient.

The Section will have full charge of its own work and funds, under the direction of an Executive Committee, composed of the Chairman, the Secretary, and the Treasurer of the Committee, subject to the Executive Committee of the Medico-Legal Society, under whose auspices its labors will be conducted. A roll of members of the Section will be prepared and members of the Section will have notice of its meetings. Active, honorary, corresponding members, or others who desire to enroll in this Section are requested to send their names at once to the Chairman or Secretary. The Section on Hypnotism will be merged in this Section, and investigations of hypnotism, psychical research, or psychical phenomena, in all forms or phases, conducted under its supervision.

## MICROSCOPIST.

The Medico-Legal Society has decided to amend its statutes so as to create this office, and has defined its duties to be that of noting the progress of scientific research in the field of microscopy and micrometry in their relation to forensic medicine, and to make an annual report to the Society at the close of each year.

Prof. Marshall D. Ewell, of Chicago, has been elected to this office, late President of the American Microscopical Society. He will bring to the discharge of its duties a large and ripe experience, and the members of the Society, who are interested in this subject, are invited to make their communications to him or the Secretary, care of this Journal.

The subject of organizing a Section for work in this field of scientific research is under consideration, and the views of all who would take an active part and interest in the same is solicited.

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BACTERIOLOGY.

The importance of this field of scientific inquiry is now so great that the Medico-Legal Society has also created the office of Bacteriologist, whose duties are directed to the investigation of the science, more especially in its relations to Medico-Legal questions, and to report annually to the Society.

Dr. John M. Byron has been elected to this position, whose well-known labors in this field are recognized by the profession.

While bacteriology depends so largely upon the microscope, it has been thought wise to make it a distinct branch of inquiry, and all students of bacteriology are invited to communicate with this office, direct or through this Journal.

## MEDICAL JURISPRUDENCE IN LAW SCHOOLS.

The Kent Law School of Chicago was incorporated July, 1892, under the Presidency of Prof. Marshall D. Ewell, and an able faculty, of which he is Dean and Professor of Common Law, Medical Jurisprudence, and Principal of the School of Practice.

It takes the lead of all American law schools in respect to Medical Jurisprudence. Besides the chair held by Prof. Ewell, Dr. James G. Kiernan is lecturer on the Medical Jurisprudence of Insanity, Prof. Harold N. Moyer is lecturer on Railway Medical Jurisprudence, and Dr. G. Frank Lydston lecturer on Criminal Anthropology.

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## EXPERTS AND EXPERT EVIDENCE.

Prof. J. T. Eskridge read a paper upon the theme, "Expert Witnesses," before the Bar Association and the Medico-Legal Society of Denver, in joint session last March.

He favored settling the question of compensation by a fixed fee of \$25 for an examination of the medical expert, and \$25 for each day that a witness is compelled to attend court.

He also submitted the action of the Medico-Legal Society of Denver, of October, 1890, upon a report drafted by him:

1. "That it is the sense of this Society that its Committee on Legislation should endeavor to have a law enacted at the approaching session of the State Legislature, empowering and requiring the judge, before whom a case necessitating medical expert testimony is to be tried, to select one or more medical experts, the number depending upon the importance of the case, the wishes of the attorneys on both sides, and upon the approval of the presiding judge.

2. "That the Board of Physicians so selected by the court be required to examine the claimant or defendant jointly as a board, and that other physicians selected by the attorneys for either side be permitted to be present and participate in the examinations and discussions of the board.

3. "That the physician selected by the court be required to testify in court concerning their examination and submit to cross-examination, as is now the custom.



4. "That a definite expert fee be allowed by the court and paid by the county for each of the physicians selected by the judge."

A law drafted upon the basis of this report was prepared by Mr. C. E. Harrington, which passed both houses of the Colorado Legislature, but was vetoed by Gov. Routt, of that State, because he thought it gave too great a power into the hands of the judges of the courts.

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## THE SUPREME COURT OF THE STATES AND PROVINCES OF NORTH AMERICA.

### TEXAS.

The first serial number of Vol. 1 of this forthcoming work is announced, appearing as a supplement to the MEDICO-LEGAL JOURNAL, and embraces the States of Texas and Kansas.

The historical sketch of the former is by ex-Judge A. S. Walker, of the Supreme Court of Texas, with the approval of Chief Justice Stayton.

The illustrations are the present Judges of the Supreme Court, Hon. John W. Stayton, Chief Justice, from the pen of ex-Judge A. W. Terrell, Associate Justices Hon. John L. Henry, sketch by ex-Judge A. J. Watts, and Hon. R. Gaines, with a sketch by Judge A. S. Walker.

Portraits of the Judges of the Court of Appeals of Texas are given, viz.: Of Hon. John P. White, presiding Judge, Hon. James M. Hart and Hon. W. L. Davidson, with sketches of each by ex-Judge Samuel A. Wilson, of that bench.

Portraits of ex-Judges Hon. Matthew D. Ector, ex-Chief Justice Court of Appeals, and of ex-Associate Judges Hon. Clinton M. Winkler, Hon. George Clark, and Hon. Samuel A. Wilson are given. Also portraits and sketches of Judge A. C. Garrett and Judge D. P. Marr, of the Commission of Appeals of Texas.

The frontispiece is a vignette group of all the Justices of the Supreme Court of the State, thirteen of whom, who were chosen after annexation and since 1846, are styled the Old Court, and eleven of whom, serving later, are designated as the New Court.

The historical sketch relates to the Court since Texas was admitted to the Union.

#### KANSAS.

The historical sketch of Kansas is from the pen of the Chief Justice of the State, the Hon. Albert H. Horton.

It is divided into the Territorial and State history.

Portraits and sketches of the present Court are given, Chief Justice Hon. Albert H. Horton and Associate Justices Hon. Daniel M. Valentine and Hon. William A. Johnston. A sketch and portrait of Gen. Thomas Ewing, the first Chief Justice of the State, is also given.

The first volume of the work will appear as soon as enough States are completed to form one, and those who desire can obtain the States as fast as issued in serial numbers.

The price of the volume will be \$5, and members of the bench or bar desiring to subscribe should address the editor of this journal. Many of the State librarians of the State law libraries have already subscribed, and it is hoped and expected that all will do so.

The thanks of the publisher is due to those who have already subscribed.

Series No. 2, containing the States of New Jersey and Oregon, will shortly appear.

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#### NEW JERSEY AND OREGON.

The second series of the forthcoming work on the Supreme Court of the States and Provinces of North America will shortly appear, succeeding Series 1, embracing Texas and Kansas.

This second series embraces New Jersey and Oregon.

#### NEW JERSEY.

The historical sketch of the Supreme Court of this State is written by Francis B. Lee, Esq., of the Trenton Bar, and treats of the history of the Supreme Court from 1664 down to the present date. It gives the Supreme Court Judges from 1794, with the reporters since 1806, and the clerks since 1816. The historical sketch of the Court of Chancery of that State is from the pen of S. Meredith Dickinson, Esq., of Trenton.

Portraits and sketches of Chief Justice Beasley and of all the members of that Court, Judges Depue, Scudder, Van Syckel, Dixon, Reed, Magie, Garrison, and Werts are given.

The illustrations of the volume for the Court of Chancery will embrace Chancellor Alex. T. McGill and Vice-Chancellors Van Fleet, Bird, Pitney, and Green.

This series will form a part of the volume published as a supplement to the MEDICO-LEGAL JOURNAL, the subscription price of which is \$5 per volume.

#### OREGON.

The historical sketch of the Supreme Court of Oregon was written early in the present year by Judge C. H. Carey, of Portland, at the request and under the supervision of Hon. R. S. Strahan, then Chief Justice of that Court, whose term of service expired July 1, 1892, and who has been succeeded by Chief Justice Hon. William P. Lord. It treats of the early history of the Territory and the later history of the State.

The illustrations embrace portraits of the present bench, and of the earlier State and Territorial Judiciary of that Court, and will also embrace some of the Judges of the Circuit Court of Oregon.

Among these are the retiring Chief Justice, Hon. R. S. Strahan, Chief Justice Hon. William P. Lord, Associate Jus-

tice Hon. R. S. Bean, and ex-Chief Justices and Associate Judges Williams, Waite, Prim, Boise, Stratton, Kelsay, Shattuck, Upton, Wilson, A. J. Thayer, McArthur, Bonham, Mosher, Burnett, J. F. Watson, E. B. Watson, W. W. Thayer, and several of the present and ex-Judges of the Circuit of Oregon.

The price of the first complete volume will be \$5, and it can be sent in serial numbers as issued, if the subscriber desires. The bar and judiciary interested in this work wishing to subscribe will address the MEDICO-LEGAL JOURNAL, No. 57 Broadway, of which the series can be obtained as issued and the volumes as completed. Series No. 2 will be ready for delivery by January 1, 1893.

### SCIENTIFIC BOOKS AS EVIDENCE.

In American courts books of science are usually held inadmissible. Medical books, by authors admitted or proven to be standard, have been admitted, with proper explanation of technicalities.

*Stoudenmeier v. Williamson*, 29 Ala., 558; *Meckle v. State*, 37 Ala., 139; s. c., Ala. Tel. Case, 45; *Bowman v. Woods*, 1 Green (Iowa), 1; *Contra Carter v. State*, 2 Ind., 617.

The Court may, in its discretion, prohibit the reading of medical or scientific books to the jury, as a matter of evidence or authority.

*Luning v. State*, 1 Chand. (Wis.), 178; *Wale v. Dewitt*, 20 Texas, 398; *Washburn v. Cuddhy*, 8 Gray (Mass.), 430.

If an expert bases his opinion upon a work, it would be admissible to contradict the expert.

*Bloomington v. Schrock*, 110 Ill., 219; s. c., 51 Am. Rep., 678.

In Indiana extracts from medical works were excluded as evidence.

*Epp v. State*, 102 Ind., 529.

Medical works are so contradictory and confusing that courts are disinclined to allow them to be read in evidence, as they tend to confuse and mislead juries.

## RAILWAY SURGERY.

Railway Surgery is becoming, we may say has become, so important a branch of Medical Jurisprudence that it demands distinct recognition in both the legal and medical professions.

Creating a distinct section upon this subject in the Pan-American Congress is only a recognition of its importance and necessity.

This journal recognizes fully the largely increasing importance of giving it a separate space in its columns, and it is now contemplated to add such a distinct department and secure the co-operation of the leading railway surgeons and counsel in its editorial work.

The editor of this journal will be glad to hear from such as would take an interest in such a feature in the forthcoming numbers.

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THE ENGLISH LUNACY REPORT OF 1892.

The total number of insane under official cognizance in England and Wales on January 1, 1892, was 87,848, an increase of 1,053 over the preceding year.

The Commissioner's report to the Lord Chancellor shows that mechanical restraint was not resorted to in a large number of the English and Welsh asylums, among which we notice:

The Cambridgeshire and Ely Asylum, the Joint Counties Asylum, Carmarthen, the Cheshire Asylum at Chester, Devon County Asylum, Essex Asylum, Lea Hall, Leyton, Glamorgan Asylum, Gloucester Asylum, Hauts Asylum, Leicester and Rutland Asylum, Lincolnshire Asylum, Barnsted (London) Asylum, Cane Hill (London) Asylum, Northumberland Asylum, Nottinghamshire Asylum, Somerset and Bath Asylum, Worcester Asylum, Yorkshire North Riding, Yorkshire West Riding (Menston), Yorkshire West Riding (Wadsley), Birmingham Asylum (Rubery Hill), Bristol Asylum, Exeter Asylum, Hull Asylum, Ipswich Asylum, Norwich Asylum, Portsmouth Asylum, Hereford Asylum.

Regarding a large proportion of the other asylums no report is made as to mechanical restraint, and in only a very

few asylums has it been resorted to, and then usually in rare and isolated cases, for surgical or medical reasons, or to prevent self-injury. The volume of restraint in English and Welsh asylums is reduced to a very small minimum, and in many cases only three, four, or five cases in a year, where it has been used at all.

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### PAN-AMERICAN MEDICAL CONGRESS.

We are glad to see the announcement of this great gathering, which will be held in Washington, D. C., on September 5th, 6th, 7th, and 8th, 1893.

This congress is called under the auspices of the American Medical Association, and the American Congress passed a joint resolution, June 3, 1892, authorizing the President to invite the several governments on the American Continent to participate.

Prof. William Pepper, of Philadelphia, is President, with Vice-Presidents from each of the American States, and of all countries in North and South America.

Dr. Charles A. L. Reed, of Cincinnati, is the Secretary, with nine assistants in the principal cities, of which Dr. Ferd C. Valentine, M. D., is one for New York, Dr. John Guiteras for Philadelphia, and Isaac N. Love for St. Louis.

The Sections of this Congress embrace nearly every department in medicine and surgery, twenty-two in number.

That upon Medical Jurisprudence is under the following Honorary Presidents:

Dr. Juan José R. de Arrellano, City of Mexico, Mexico; Dr. Manuel C. Barrios, Lima, Peru; Dr. Wilder L. Burnap, Burlington, Vt.; Dr. Charles F. Chandler, New York; Hon. J. D. B. DeBow, Nashville, Tenn.; Dr. Wenceslao Diaz, Santiago, Chile; Dr. R. Ogden Doremus, New York; Hon. Lucilius A. Emery, Brunswick, Me.; Hon. M. C. George, Portland, Oregon; Dr. Alexander E. McDonald, New York; Dr. Perry H. Millard, St. Paul, Minn.; Hon. Calvin E. Pratt, Brooklyn, N. Y.; Dr. Joaquin Quiles, Havana, Cuba; Dr. H. J. Launders, Toronto, Canada; Dr. A. N. Bell, New York; Dr. A. Vander Veer, Albany; Hon. Clark Bell, New York, N. Y.

The Executive President of this Section is Dr. Alonzo Garcelon, of Lewiston, Maine. The English-Speaking Secretary is Prof. Harold N. Moyer, of Chicago, and the Spanish-Speaking, Dr. Plutarco Ornelas, of San Antonio, Texas.

The Executive President of the section on Railway Surgery is Dr. C. W. P. Brock, of Richmond, Va., and of Diseases of the Mind and Nervous System, Dr. C. H. Hughes, of St. Louis.

Prof. Victor C. Vaughan, of Michigan, is Executive President of the section on General Medicine.

The subjects of Toxicology, Microscopy, Bacteriology, are not treated in separate sections, but so far as these relate to forensic medicine, they will, we presume, fall under the control of the section on Medical Jurisprudence.

## PSYCHOLOGY.

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The marvellous growth of interest in psychological subjects from year to year promises a wide outlook for the future in the ready adaptability of facts, as fast as obtained, to the most absorbing questions of life. A complete revolution in educational methods is pending; the medical and legal aspects of criminals and of the insane are assuming new and strange complications, and great light seems ready to break upon many moral and religious problems. Not a month passes without report of better means of observation and experiment, and the colleges and universities are constantly adding to laboratory apparatus, and to the breadth and extent of their elective courses in experimental psychology.

All indications point toward developments in the near future which will be of signal value in their bearing upon science and man.

### PSYCHOLOGY AT THE WORLD'S FAIR.

A section of psychology has been established at the World's Fair, in connection with the Department of Anthropology, of which Prof. F. W. Putnam is the chief.

The object of the section is to exhibit, in a typical way, the methods and results of modern psychology.

The final plans are not yet definitely arranged, but the interest and aid of Psychologists are earnestly desired.

The section of psychology has been placed under the direction of Prof. Joseph Jastrow, University of Wisconsin, Madison, Wis., to whom all communications should be addressed.



AMERICAN JOURNAL OF PSYCHOLOGY, QUARTERLY, OCTOBER,  
1892.

Part II. of Mr. Benjamin Ives Gilman's "Report on an Experimental Test of Musical Expressiveness" is an important paper. The opinion of Mr. Gilman, which has been the starting point of this experiment, is, that "Music is a form of language; a vehicle by which thoughts and feelings may be transmitted from one mind to another." While the idea is in no sense a novel one, the test, as employed by Mr. Gilman, is new, and replete with interest.

JOURNAL OF THE SOCIETY FOR PSYCHICAL RESEARCH, NOVEMBER,  
1892.

The current number records the accession of twenty-six new members and associates to the parent society in London and the American branch.

The brief tribute to the late Lord Tennyson, by Prof. Sidgwick, closes thus: "This two-fold aspect of Tennyson's relation to modern science—this combination of eager receptiveness for established scientific truths with vehement recoil from the conclusions to which a limited and narrow application of scientific method appeared to be leading—rendered it natural that he should give his sympathy and support to the efforts of our society. And the memory of this sympathy will be an abiding possession for our workers, as the poems in which his convictions were uttered will be for the world, in the widening future of English literature." The journal is for circulation among members and associates only. *The Proceedings* is the other organ of the society, of which Prof. William James thus writes in a late number of *The Forum*: "Were I asked to point to a scientific journal where hard-headedness and never-sleeping suspicion of sources of error might be seen in their full bloom, I think I should have to fall back on the *Proceedings of the Society for Psychical Research*."

The society is just closing the tenth year of its existence, and its position is one of dignity before the world, its membership including some of the deepest and most astute thinkers of our time.

In the November number of *The Psychical Review*, *Quarterly*, "Popular Prejudice and Psychical Research" are discussed by the Rev. T. Ernest Allen, Secretary of the American Psychical Society. Though originally designed for the members of the Society only, *The Psychical Review* is now increasing its circulation through subscriptions received from others interested in psychical science. The membership of the society includes many well-known clergymen and writers.

A privately reported case from Boston of the successful use of hypnotization and suggestion in inducing total abstinence from intoxicating liquors where all else had failed, recalls the brilliant paper from Dr. Berillon, of Paris—"Treatment of Dipsomania by Hypnotism"—published in a somewhat recent number of the *Revue de l'Hypnotisme*.

Dr. Richard Hodgson read a paper on "Crystal Vision and the Subliminal Consciousness," before the New York Section of the American Branch of the Society for Psychical Research, on December 21st, at Hamilton Hall, Columbia College.

#### PSYCHOLOGICAL SECTION OF MEDICO-LEGAL SOCIETY.

A section on psychological work is now forming, under the auspices of the Medico-Legal Society, of which Mrs. C. Van D. Chenoweth is Chairman and Clark Bell, Esq., is Secretary.

Members of the Medico-Legal Society desiring to enroll in this section will send their names, and an enrolling fee of \$1.50, to the Chairman or Secretary of the section, care of the JOURNAL, which will be the annual dues of members.

Those not members of that society can enroll on payment of \$5.00 annually.

The disbursements and expenses of the section, and all its affairs, will be under the management of an executive committee of three, composed of the Chairman, Secretary, and Treasurer of the section.

The experimental work of the section will include every subject embraced in psychological science. If sufficient interest is taken, select committees upon hypnotism, mental suggestion, telepathy, hallucinations, apparitions, modern spiritualism, and all psychological phenomena, will be formed, and classes of investigation created.

## JOURNALS AND BOOKS.

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A MANUAL OF JURISPRUDENCE AND TOXICOLOGY. By Henry C. Chapman, M. D., Prof. of Medical Jurisprudence, Jefferson Medical College of Philadelphia. W. B. Saunders, publisher, Philadelphia, 1892.

Prof. Chapman was Coroners' Physician in Philadelphia for six years, which drew his attention largely to medico-legal cases, and fitted him in a practical way for many of the duties of his chair, and this small volume of 237 pp. is the main thoughts of a course of lectures he gave as Professor of Medical Jurisprudence to the students of Jefferson College in 1891-2. The work is rather a hand-book for students than a treatise. It is subdivided into fourteen chapters. The first twelve treat of the subjects that would most attract a Coroners' Physician, in the Coroner's practice, notably, death, wounds, blood stains, burns, starvation, rape, pregnancy, abortion, infanticide, legitimacy, impotency, presumption of life and death, hypnotism, life insurance, malpractice.

He touches the surface only of insanity and the criminal responsibility of the insane in a short chapter of 16 pages, but his pen has the magic touch of an artist.

Chapter 14 is devoted to Toxicology, and enumerates the various characteristics and indications of the usual poisons.

As a hand-book, and for a superficial view of the subjects treated, we have rarely seen so much of the sum of what may be called our present knowledge compressed in so small a compass. Prof. Chapman has rare facility in condensation, and while we could not agree with all his views as to the legal responsibility of the inebriate, and in many cases of insanity, in all respects, it is doubtless true that if the subject were treated at length or more in detail, these apparent discrepancies might disappear.

INSANITY AND ALLIED NEUROSES. By George H. Savage, M. D. Lea Brothers & Co., publishers, Philadelphia, Pa., 1892. (543pp).

Dr. George H. Savage was for more than twelve years Superintendent of Bethlem Royal Hospital in London. For years he has been associate editor with Dr. Hack Tuke, of the *Journal of Mental Science*, and always a thorough student and careful observer, he brings to the work of writing a treatise upon insanity an unusually rare and ripe experience. So far as contact with the insane goes, his experience at Bethlem Hospital gave him practical knowledge, and his relations with the *Journal of Mental Science* not only brought him into intimate contact with the ablest English alienists and made him conversant with all their views, but gave him unusual facilities for a careful study of all phases of the subject.

He has divided his treatise into twenty-five chapters. The first three treat of insanity in its general medical and legal standpoints, its classifica-

tion and predisposing causes, and the next nineteen chapters are devoted, one each, to various forms of insanity, as he classifies and systematizes it. He devotes chapters 23 and 24 to the responsibility of lunatics and the legal relationship of the insane, and completes a very valuable work with a general summary of the new English Lunacy Act, with careful instructions of how to work under it.

I think no writer of recent date speaks more carefully or accurately of causes of insanity in various forms than Dr. Savage. His work is of enormous value to medical men, and, indeed, to all observers in this regard. As to the question of responsibility of lunatics, especially in criminal cases, Dr. Savage certainly occupies advanced ground, as contrasted with other members of the medical profession. While he may not understand the legal views that have controlled English courts, he surely feels and appreciates their results as they affect the opinions of medical men.

Assuming that the opinions of the judges in the *McNaghten* case are the laws of England, he contends that a modification of this doctrine is now universally believed to be necessary, by the medical profession, at least.

In this he reflects as well judicial evolution on both sides the Atlantic, and considerable change of views among jurists everywhere.

His whole chapter presents in a very strong light the medical reasons why the test of a knowledge of right and wrong is beyond all question an unsafe criterion as to responsibility of the lunatic, and his analysis of the question of insane delusions is of great force to those who regard delusions as essential to the existence of insanity.

All in all, the contribution of Dr. Savage to the literature of insanity is both timely and valuable, and well worth the careful study of every student of the phenomena of mental diseases.

The American publisher have presented the third edition in an attractive form, the volume being small and compact enough to carry in one's pocket. It should be generally read by medical men, who are not alienists, but in general practice, as its views are so carefully presented, and with such explanations and knowledge of the subject, that the work is capable of enormous good to the medical profession at large as well as the specialist and expert in the class of cases to which it relates.

UN SOUNDNESS OF MIND IN ITS LEGAL AND MEDICAL CONDITIONS. By J. W. Hume Williams. William Wood & Co., N. Y. (1892).

If alienists and medical men generally accepted the definition of monomania that Mr. Williams gives in this very able work, we should favor its continuance in the nomenclature of mental derangement. But they do not. What the legal profession, judges, and that large class of both professions who have not made a special study of madness, understand by monomania is one thing, and what medical writers of the continent, from Esquirol, who may be called the author of the term, down to the great medical authorities of the present day in France, Germany, and Continental Europe, is quite another.

Mr. Williams thus defines the word: "Monomania may be defined as a morbid mental condition, induced and characterized by an habitual recurrence of similar thoughts, which eventually concentrate in one fixed idea."

In this disease the mind, as Reid well expresses it, "suffers a paralysis of its powers of conception, and is thereby rendered inadequate to appreciate all the general or special relations of some particular point round which its thoughts, as it were, revolve."

Without criticising this definition farther than to say it would not be regarded as sufficiently exact by medical authorities, even if the bench and bar would accept it, it is interesting to contrast it with those standard definitions of both kinds which are so confusing as to render the use of the term exceedingly unwise and improper in the nomenclature of mental disease.

The lexicographers define monomania thus :

Webster : "Derangement of a single faculty of the mind, or with regard to a particular subject, the other faculties being in regular exercise."

Worcester : "Insanity upon one particular subject, the mind being in a sound state with respect to other matters."

Judges, lawyers, and lay writers regard the monomaniac as one who labors under some one delusion, and in all other respects possesses clear faculties.

Medical men and writers do not accept such a view. Esquirol describes it altogether in a different sense. So does Morel, Marc, Krafft, Ebinger, M. Meynert, Greisenger ; nor do the English and American alienists or medical legal jurists accept such a definition ; notably, Blandford, Maudsley, Hack Tuke, and Sankey, of the former, nor Ray, Earl, Ewell, Stearns, Parsons, Channing, Kellogg, McLane, Hamilton, of the latter. (*Vide* article Monomania, MEDICO-LEGAL JOURNAL, Vol. VII, No. 2. 1889.)

Passing this criticism, this contribution of Mr. Williams upon the literature of insanity and criminal responsibility of diseased minds is very able, and one of the most valuable to both the professions made in the last decade.

Medical men will arise from its perusal with a high appreciation of the labor, research, and solid learning displayed by the writer.

It is especially interesting in both explaining and accurately defining the differences which have divided legal and medical men upon the question of responsibility, under the law, of the lunatic called criminal, and in reconciling these and relegating to each profession its true sphere in determining the involved problems.

Mr. Williams says : "The question of unsoundness of mind in its relation to criminal acts is thus a compound or medico-legal one. Law may define the ethico-legal position as regards the act ; medicine fix the psycho-ethical responsibility as regards the individual"—a proposition we doubt not to fully establish, even though the greatest living jurist, Sir James Fitz-James Stephen has written : "To allow a physician to give evidence to show that a man who is legally responsible is not morally responsible is admitting evidence which can have no other effect than to persuade juries to break the law." If the word "mentally" were substituted for "morally," would ground for the same observation exist? Is not the minor included in the major proposition?"

His observations on "Moral Insanity," in the third chapter of his book, are rich in knowledge of the subject, and the deductions from the case of William Frederick Wyndham, with which he was connected professionally,

(p. 98 *et seq.*) and the points of distinction between the act of the real criminal and the insane person, tabulated at page 107, are well worthy the consideration of every student of the subject.

**FOSTER'S FEDERAL PRACTICE.** 2d edition. By Roger Foster, of the New York Bar. Boston Book Co. (1892).

This work was originally intended as a guide to practitioners in all cases except admiralty and criminal prosecutions and practice before the Court of Claims, when it appeared in 1889. The act creating the Circuit Court of Appeal made such sweeping changes in the jurisdiction and practice affecting appeals and writs of error that a revision became necessary, and the second edition, of 1892, supplies the needed modifications. The author seized the occasion to make important additions and references to the later decisions, especially relating to the method of removal from State to Federal Courts.

He has also taken up the omitted subjects of admiralty practice and the Court of Claims, and of the former the addition of a new chapter on practice in admiralty, by Charles C. Burlingham, Esq., of the New York Bar, is a conspicuous feature.

Ex-Judge E. A. Bowers, of the Washington, D. C., Bar, contributes a chapter on the practice in the Court of Private Land Claims and of practice in the Court of Claims.

The act commonly known as the Evarts act passed, March 3, 1891, is given in full, which created the new courts, defined their jurisdiction, as well as several acts of general interest to the profession, and the complete rules of the Supreme Court, the Circuit Court of Appeals, the Court of Claims, the Court of Private Land Claims, the admiralty, and the Equity Rules are given in the appendix, with very full forms, and the forms in admiralty practice.

No practitioner in the Federal Courts can well dispense with this work.

It has been carefully prepared, well written, and displays great research and learning.

**PRINCE SCHAMYL'S WOOING.** By Richard Henry Savage. 4th edition. American News Co., New York. (1892).

When "My Official Wife" came out, and was received with such enormous popular approval as to excite the astonishment of the general public, we naturally looked to see what success would attend upon the new claimant for public favor in his later productions, who suddenly awoke to find himself famous as a writer of fiction, with a reputation made at a bound and upon a single work.

The story of the Russo-Turkish war is told in a more fascinating way than was the first. Mr. Savage, it must be known, is a military man, and has been an officer in our army, and the scene of the contest that had for its theater all that agitated the rulers of St. Petersburg and the Levant, is clearly more to his taste than that story on which his reputation as a novelist had been made.

It is difficult to analyze the style of this writer. It is enough to say that in this book he holds you close from start to finish.

What seems most remarkable is the wonderful knowledge the work displays of not alone the geography and topography of the Crimea, of Asia-Minor, and of that vast unknown land of the Cossack, the Caucasus, and the Children of the Prophet, which now forms the southeastern portion of the Russian Empire, a *terra incognita* to Americans, but which Col. Savage has as much at his fingers' ends as would Bunker Hill, Concord, and Lexington be to a New Englander.

If Col. Savage had a Russian wife, or had spent his life in Russia, in circles where the plans and cause of the Czar had been under his eye, he could not have spoken more minutely of Russian policy, and aggrandizement, or its relation to the possessions of the Sublime Porte or the Mahometan East, than he has in this interesting and fascinating book.

It certainly merits the phenomenal success it has received.



## BOOKS, JOURNALS, AND PAMPHLETS RECEIVED.

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Dr. Herman Kornfeld, Silesia.—Sind Ziehmer Nabel und Mutterrohr in die Wurst Gehackt Gesundheitsschadlich?

Dr. Charles Templeman.—Suffocation of Infants. (1892.)

Seth Scott Bishop, M. D.—Spraying Nose, Throat, and Ear. (1892.)

William R. Edwards, M. D., J. S. Waterman, M. D.—Hepatic Abscess. (1892.)

Irving C. Rosse, A. M., M. D.—Sexual Perversion. (1891.)

Charles Herman Thomas, M. D.—Stricture of the Lachrymal Duct.

Hon. Charles Bonney.—Circulars of the World's Congress Auxiliary to the Columbian Exposition of the Various Sub-Committees.

New York Academy of Anthropology.—Programme of Exercises, Season 1892-'93.

Alabama State Bar Association.—Report of 15th Annual Meeting. (1892.)

Dr. F. M. Brewer.—Bulletin Department of Liberal Arts, World's Columbian Exposition, Bureau of Hygiene and Sanitation. (1892.)

Frank J. Parmenter, Esq.—The Common Lot of the Lawyer. (1892.)

William B. Fletcher, M. D.—Stray Papers on Cerebral Subjects. (1892.)

A. Vander Veer, M. D.—Hysteria—Epilepsy. (1892.) Cancer of Uterus. (1892.) Uterine Hemorrhage. (1892.)

T. H. Kellogg, M. D.—Affections of Speech in the Insane.

P. Blanchemanche, Secretary Cercle d' Etudes de Jeune Barreau, Brussels.—Circular Letter and Questions.

Ernest Rosenfield, Halle, La Terea Scuola.—Bulletin de l' Union Internationale de Droit Penal.

American Bar Association—Report of Committee on Legal Education. (1892.)

Illinois State Board of Health.—Minutes of Meeting of July 27, 1892.

Middleton Michel, M. D.—Two Cervical Muscle Anomalies in the Negro. (1892.)

William H. Wathen, M. D.—Abdominal and Pelvic Surgery and Laparotomy. (1892.)

Dr. W. Uppstrom, Stockholm, Sweden.—Der Zivilprozess und die Gerichtsverfassung Schwedens. (1892.)

Hon. Charles C. Bonney.—Circulars of Departments of the World's Congress Auxiliary. (1892.)

Florida State Medical Association.—Transactions of 1892.

C. H. Hughes, M. D., St. Louis.—Medical Manhood. (1892.) Infant Insomnia. (1892.) Hysteria. (1892.)

Prof. Marshall D. Ewell, Chicago.—Circular of Kent Law School of Chicago. (1892-'93.)

Prof. Charles K. Mills, Philadelphia.—Aphasia. (1892.)

Prof. J. T. Eskridge, Denver.—Expert Witnesses. (1892.)

Senator Thomas Roussell.—Depopulation de la France. (1891.)

Charles Stevens, Esq., Naparpe, Ont.—A Sailor Boy's Experience.

Dr. C. T. Wilbur.—Philanthropic Index and Review.

G. W. McCaskey, A. M., M. D.—Clinical Studies. (Quarterly.)

D. F. Wilbur.—Groups of Holstein Cattle.

La Revista Medico Quirurgica. (Vol. 1, No. 3—Nov., 1892.)

Revue Internationale de Bibliographie. (Nov., 1892.)

L. S. Hinckley, M. D.—Annual Report Essex County Asylum for the Insane. (1891; also 1892.)

Revue Penale Suisse. (1892.)

Prof. Luigi Lucchini.—Rivista Penale, &c. (October, 1892.)

Dr. Charles A. L. Reed.—Annual Pan-American Congress.

Benjamin Lee, A. M., M. D., Ph. D.—History of Suspension in Pott's Disease. (1891.) Fourth State Sanitary Convention of Pennsylvania. (1891.) Injuries to the Sacro-Iliac Junction. (1891.)

William Wood & Co., New York City, N. Y.—Unsoundness of Mind in Its Legal and Medical Considerations, by J. W. Humé Williams, Esq. (1892.) Railway Injuries, by Herbert W. Page, M. A. (1892.)

The Boston Book Company, Boston, Mass.—Foster's Federal Practice, 2 vols. (1892.)

Col. Richard Henry Savage.—Prince Schamyl's Wooing, 4th ed. (1892.) The Little Lady of Lagunitas, 6th ed. (1892.)

Mrs. C. Van D. Chenoweth.—Stories of the Saints, Houghton, Mifflin & Co., Boston. (1891.)

Chicago Times Co.—Chicago 20 years after. (1892.)

Americal Microscopist Society.—Transactions 1892, first part. (1892.)

## MAGAZINES.

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**THE CRITIC.** A weekly published at 52 Lafayette Place, N. Y. Admirably edited. In December number Henry Tywell writes entertainingly of Emile Zola; Charles E. L. Wingate contributes the usual Boston letter; Julian Hawthorne writes of Richard Hackett Lord and his death.

**THE MICHIGAN LAW JOURNAL.** October number reports the discussion of Chief Justice Morse, of Michigan, in *People vs. Kenyon*, granting a new trial, where the prosecution did not call an eye witness to the offense, holding that the people were bound to call her. The *dictum* was, "If she saw any portion of the trouble, she should have been sworn as a witness by the prosecution, and the court had power to compel them to do so." Citing *Thomas vs. People*, 39 Mich., 309; *Hurd vs. People*, 25 Mich., 416; *Mahar vs. People*, 10 Mich., 226; *Millar vs. People*, 30 Mich., 22, and the English cases—*Chopman's case*, 8 C. & P., 559; *Orchard case*, *id.*, note; *Roscoe's Crim. Ev.*, 164.

The same journal speaks of the historical facts leading to the establishment of the Union Law School of Chicago, now the Kent Law School, and its great success in attendance of students, and of Prof. Marshall D. Ewell's relation to it, growing out of a split from the North Western Law School, similar to the one from Columbia Law School in New York, and the great popularity of the two new schools in the cities of New York and Chicago.

**THE ALBANY LAW JOURNAL.** Weed, Parsons & Co., Albany; Irving Brown, editor. This journal is a weekly. The December 17th number gives the programme of the annual meeting of the New York State Bar Association on January 17th to 18th, proximo.

Addresses will be made on the 17th by Judge Brewster, of the United States Supreme Court, and Judge Alton B. Parker, late of the 2d Division New York Court of Appeals. The annual dinner will be dispensed with, instead of which Governor Flower tenders a reception at the executive mansion to the members of the Association and the Judges of the Courts.

**ANNALES MEDICO PSYCHOLOGIQUES.** Paris, bi-monthly. Dr. Ant Ritti, editor-in-chief.

The September-October number, 1892, is before us. The chronique is a critical review of the annual session of the French Society of Mental Medicine, held at Blois, August 1, 1892, under the Presidency of Senator Thérèse Roussel, by Dr. A. Giraud. The number, besides original articles by F. Raymond and F. Larnaud, gives the transactions of the French Societe Medico Psychologique and an extended review of the French journals on subjects germane to the specialty, among which we

notice reviews of papers by Prof. Charcot, Dr. Riant, Dr. Christian, Dr. Briand, Dr. Sangier, Villard (de Gueret), Dr. Marandon, Dr. Motet, Dr. Moreau (of Tours), and Dr. Chevalier, that have appeared in the "*Annales de Hygiene et de Medicine Legale*," of Paris, in 1889.

ARCHIVES L' ANTHROPOLOGIE CRIMINELLE. Lyons, France. Conducted by Drs. Lacassagne, Garraud, and Contagne.

Prof. Adrien Audibert, Prof. of Law, contributes a paper upon the Roman law, regarding the insane and the influence of medical science on its changes; Prof. Berard, of Grenoble, upon Anarchists, and Dr. Contagne, the Brochure of Dr. Arthur MacDonald, on the cases of Jesse Pomeroy and Frenchy, in an essay on Criminality.

Prof. Bertrand, of Lyons, gives an interesting critique, entitled: "*Cours Municipal de Sociologie*," and Dr. Cowe reviews the Russian journals and authors on Criminality.

FRANK LESLIE'S MONTHLY. Mrs. Frank Leslie, editor and publisher.

The January number of 1893 is out in advance as a holiday number, with attractive features.

Joaquin Miller's poem, "America," written expressly for the editor, is published apropos of the Columbian quasi centennial. L. J. Vance contributes a readable paper on New York Restaurant Life, and J. Carter Beard an interesting one on Illusions of the Senses. There is an unusually large number of women contributors, and the whole number is very attractive and handsomely illustrated.

ANNALES DE' HYGIENE ET DE MEDECINE LEGALE. Paris, Balliere et fils.

This journal is the organ of the Medico-Legal Society of France, of which Monsieur Demanche is President. From it we learn that at the May meeting of that body in 1892 Dr. Floquet submitted a paper upon the provisions of the laws of France regulating the practice of medicine, and at the June session the French Medico-Legal Society approved a report and recommendation made by Dr. Floquet, that a physician should not be entitled to practice medicine in France under a pseudonyme.

REVIEW OF REVIEWS. American editor, Albert Shaw; English editor, N. T. Stead.

The December number gives for frontispiece a group of newly-elected American Governors, fourteen in number, and a second group is given of fifteen other newly-elected Governors of American States.

The composite portrait of the British Cabinet appeared in November number, and is explained and its criticisms reviewed in December number. The method of its production is given. The sixteen members of Mr. Gladstone's Cabinet were first photographed in groups of four, and then each blended into its head man, who was taken last. Then these four groups thus blended were all combined, and at the end Mr. Gladstone's portrait was photographed upon the whole. The result received friendly criticism in American journals (to which it was justly entitled), but awakened unfriendly and hostile remarks in the English press.

A similar composite photograph of Mr. Cleveland and his Cabinet is promised in the future. We presume President Harrison and his Cabinet will be thus portrayed by this enterprising journal.

AMERICAN JOURNAL OF POLITICS. New York, October.

This journal is rising in public favor, and has an attractive series of articles. Mr. W. H. Jeffrey contributes a paper, entitled: "How to Abolish War," in which he asserts that arbitration is not feasible, and recommends the formation of a World's Supreme Court, to which all disputes between nations might be referred, and suggests that our government take the initiative and invite all nations to appoint commissioners to formulate a plan.

NORTH AMERICAN REVIEW. Lloyd Bryce, editor.

This journal completes its 155th volume and 78th year with its December number, 1892.

The Governor of Jamaica, Hon. Henry A. Blake, claims that no place excels it for immigrants with capital, but not without, and shows how profitable investments may be made. He answers the published opinions of Bruce and others, disparaging Jamaica, with statistics and statements of weight, and quite conclusively.

Colonel T. A. Dodge contributes an excellent paper on "The Horse in America."

ASCLEPIAD. B. Ward Richardson, M. D., editor, London. Third Quarter.

"The Cause and Prevention of Death by Chloroform" is a valuable contribution to the literature of that subject.

THE CHAUTAUQUAN. Dr. Flood, editor, Meadville, Pa.

Steadily improves. Dr. John S. Billings contributes an important paper on "Mortality in the United States."

THE MENORAH MONTHLY. Moritz Ellinger, editor, New York.

This journal is edited with signal ability. It has given considerable space to Columbus and his era, so full of interest to our approaching centennial. Its articles are of a high order of merit.

REVUE SCIENTIFIQUE. Paris.

M. Legrain contributes an interesting paper on the "Belgian Congress of Criminal Anthropology of August Last" to the October 15th number, and Norman Lockyer a careful article upon "The Planet Mars."

REVUE ENCYCLOPEDIQUE. Paris.

Dr. P. Soller contributes a paper on "Criminal Anthropology" to the October 1st number, and J. Grand Carterel two articles to October 15th number—"Cholera in Caricature" and "Renan in Caricature."

## THE GROUP OF EMINENT JURISTS AND MEDICAL MEN.

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PROF. FRANZ VAN HOLTZENDORFF,

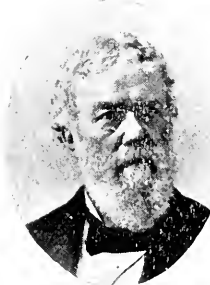
OF MUNICH, BAVARIA.

No more lustrous name will be enrolled at the close of our century among the great jurists of Continental Europe than this.

Profoundly learned in the science and philosophy of the law, his fame extended far beyond his country and, since his death, he belongs to all the world.

Taking an interest in the studies of the Medico-Legal Society, he contributed to its labors, and was one of its most accomplished corresponding members. Editor of the *Gerichtssaal*, he led the thoughtful minds of all the great German-speaking countries in the principles of criminal law as a great science.

Since his death his memory has been made enduring by the establishment of the Holtzendorff Fund, with its headquarters in Berlin, in which men of all countries, admirers of his genius, have placed an imperishable monument to his distinguished service in the advancement of criminal law.



EMINENT MEDICO-LEGAL JURISTS AND MEDICAL MEN OF THE MEDICO-LEGAL  
SOCIETY, AND OF THE INTERNATIONAL MEDICO-LEGAL  
CONGRESS OF 1893.

PROF. DR. JEAN MIERZEJEWSKI,  
of St. Petersburg.

PROF. DR. FRANZ VAN HOLTZENDORFF,  
of Munich.

DR. F. E. DANIEL,  
Austin, Texas.

EX-JUDGE ABRAM H. DALY,  
President-Elect Medico-Legal Society.

A. F. EGGLESTON, ESQ.,  
(State Attorney,) Hartford, Conn.

EX-JUDGE A. J. DITTENHOEFER,  
of New York City.

JUDGE DAVID H. BREWER,  
Supreme Court of the United States.

CHANCELLER JOHN A. FOSTER,  
of Alabama.

JUDGE MATTHEW P. DEADY,  
of Oregon.

CHANCELLER COBB,  
of Alabama.

DR. ROBERT J. NUNN,  
of Savannah, Ga.

DR. J. T. SEARCEY,  
of Alabama.





## PROF. MIERZEJEWSKI,

OF ST. PETERSBURGH, RUSSIA.

We are glad to produce, at the head of the same group with the great Bavarian jurist, the portrait of one of the great medico-legal jurists of Russia.

Prof. Mierzejewski is the President of the Russian Society of Psychiatry of St. Petersburg, editor of the *Journal of Legal and Chemical Psychiatry and Nervo Pathology*, and is at the head of the Faculty of Medicine in the Russian Capital. Well known to men of science in every European capital, he has for some years been a corresponding member of the Medico-Legal Society of New York, and is a member and contributor to the International Medico-Legal Congress of 1893, to be held at Chicago.

He is in the foremost rank of medical jurists in Russia, and has made and well deserves international recognition in his profession.

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## JUDGE ABRAM H. DAILEY.

Abram H. Dailey was born in Sheffield, Mass., October 21, 1831.

He is of Irish and English ancestry. After the usual New England common school education in boyhood, he entered at 15 a Quaker school at Washington, Dutchess county, N. Y., and from there entered the Connecticut Literary Institute, at Saffield. He fitted for college at Milliston Seminary, East Hampton, Mass., but was obliged by failing health to abandon all study and return to his father's farm to recruit his health.

Later he entered the law office of George N. Briggs & Son, of Pittsfield, Mass., and afterwards entered the Law School at Ballston Spa. He was admitted to the Bar of Massachusetts in 1855 and commenced the practice in that State, and after three years removed to Brooklyn, N. Y., where he com-

menced practice in October, 1858, and where he has since resided and attained celebrity in his profession, in which he excels as an advocate. In 1863 he was elected Judge of the 4th District Court of Brooklyn, overcarrying an enormous opposition majority as the candidate of the Republican party, and was selected as their candidate for District Attorney in 1870, and in that Democratic county was defeated by only 1,700 votes, by the returns which were generally believed to have been fraudulent in his case. Great indignation and public excitement was aroused at the fraud, and a committee of 100 citizens were named to investigate them by a meeting held in the Academy of Music, which showed sufficient fraud to have much more than changed the result of that election.

He later formed a partnership with Col. John J. Perry. Judge Dailey supported Mr. Horace Greeley for the Presidency and has since that contest acted with the Democratic party.

In 1876 Judge Dailey was the nominee of the Democratic party for Sungate, of Kings County. The Republicans combined with the independant Democrats and were elected, but counted out by a few votes. He contested the result and was awarded the office, which he filled for three years.

He is now at the head of the firm of Dailey, Bell & Crane and enjoys a large and lucrative practice.

Judge Dailey is an easy, graceful and eloquent speaker. He has a warm and magnetic nature, and has literary social tastes of a high order.

He was recently elected President of the Medico-Legal Society of New York, and will take his seat in January, 1892.

He is a member of the American Medico-Legal Congress, and will contribute a paper to that body.

## F. E. DANIEL, M. D.,

## OF TEXAS.

Dr. F. E. Daniel, editor of *Daniel's Texas Medical Journal*, and late Secretary Texas State Medical Association, is a Virginian by birth. His father, Robert W. T. Daniel, was a native of North Carolina, and his mother, of Virginia, a Miss Adams, a descendant of the old Adams family of Colonial times. Dr. Daniel was educated in Mississippi, his father having removed to that State in 1845, when he was a small child. Born July 18, 1839. Studied law on attaining his eighteenth year, but discarded it for the study of medicine. Attended lectures at the New Orleans School of Medicine in 1860-'T-'2, and graduated M. D. from that school in February, 1862. This was during the service of the two Flints, Austin Flint, father and son, and of E. D. Fenner. The war between the States having broken out meantime, Dr. Daniel volunteered as a private soldier and went to Manassas, Va., in the 18th Mississippi Infantry, the battle of Manassas or Bull Run (18th July) having been fought on his twenty-second birth day. Discharged from the ranks on application, Dr. Daniel appeared before the Army Board of Medical Examiners, at Tupelo, Miss., and passing a thorough examination, was commissioned, by the Secretary of War, as Surgeon, with the rank pay of Major of Cavalry. He was the youngest full Surgeon in the Army of Tennessee, being then (July 8, 1862,) ten days less than twenty-three years of age. Served as Secretary or Recorder of that Board, and on the invasion of Kentucky by Bragg was attached to Lieutenant-General Hardee's staff, and served as Assistant Medical Inspector. Was later assigned to duty in the hospitals in the States of Georgia, Tennessee, and Mississippi. While stationed at Chatanooga Dr. Daniel was detailed for service on a general court martial, and, by Gen. Bragg, was

appointed Judge Advocate. Later was offered, but declined, position of Assistant Medical Director on Bragg's staff.

On the restoration of peace Dr. Daniel settled in Galveston, and was offered and accepted (1867) the Chair of Anatomy in the Texas Medical College, and the next session was tendered that of Surgery, and the position of Chief Surgeon to the college hospital. This he declined on account of impaired health, incident to a recent attack of yellow fever, during the memorable epidemic of 1867.

In Galveston he lost his wife and one of his two children, he having married, in July, 1863, Miss Minerva Patrick, near Vicksburgh, Miss., obtaining a special leave of absence from Gen. Bragg for the purpose. The marriage occurred the day after the fall of Vicksburg, and the bridal party retreated to Jackson with Gen. Joe Johnson's Army, coming near falling into the hands of the enemy, as did their bridal dinner.

Returned to Mississippi in 1875 and located at Jackson. In 1872 Dr. Daniel was married, his second wife being Fannie Smith, daughter of the late Adam Yakley Smith, formerly of Orange County, N. Y., and a niece of Gen. Samuel Gholson, of Mississippi, formerly United States Senator from Mississippi, and a Major General in the Confederate Army. During his residence in Jackson (1875-'81) Dr. Daniel rendered valued services in the memorable epidemic of yellow fever at Lake Village, where the disease prevailed in a most virulent and fatal form. He made a report to Congress, giving the peculiar and unusual features of this epidemic. A National Board of Health having been created, Dr. Daniel was appointed Sanitary Inspector for Mississippi, and had charge of the United States Quarantine at Vicksburg the following year. Was a member of Mississippi Medical Association, and contributed some papers to their transactions. Was elected to deliver the annual oration

in 1881, but removed from the State before the appointed time.

In 1881, June, he removed with his family, wife and four young children, to Sherman, Texas, greatly impaired in health. Here nothing but bad health and other misfortunes befell him, and in March, 1882, he removed to Fort Worth. The move was disastrous, as here worse misfortune occurred. The death of his youngest child, a son of three years of age, so preyed upon the mother's mind that she went into a decline and shortly followed him.

In September, 1883, he inaugurated the *Texas Courier-Record of Medicine*, at that time the only medical journal in Texas. It was a success, and shortly after the death of his wife Dr. Daniel removed to Austin, to better care for his three young daughters, and finding it inconvenient to continue to edit the journal from a distance, he sold his interest to a Doctor Brooks, and in July, 1885, he established the present journal, *Daniel's Texas Medical Journal*, which has been a remarkably successful publication. It was soon recognized as the leading journal and exponent of rational medicine in Texas. In its first year the memorable "Ninth-International-Medical-Congress-Controversy" begun, and this journal played an important part in the fight for the right of the South and West to representation and participation in that body. It will be remembered that at New Orleans, when the committee, who had organized the Congress, (rather prematurely,) made their report, dividing the offices out entirely among the New England States, Doctor Daniel moved that the report be not received, and what a sensation this occasioned. He backed up the resolution by a vigorous protest in the name of his constituency in Texas, some four thousand practitioners, and claimed for them equal right to representation in the organization of the Congress with any other State, and pointed out the great indig-

nity that had been put upon the physicians of the South, and the injustice done them, especially in view of the fact that recognition and offices had been give the new code element who had been refused admission at Detroit to the Convention of the American Medical Association. Then a long and bitter war of medical journals took place, and *Daniel's Texas Medical Journal* led the fight for his section, and finally obtained all that was asked. A new committee was organized, composed of one physician from each State. They met at Chicago and re-organized the Congress, giving the regular profession of every State proper recognition, and Texas a large share of the honors: one Vice-Presidency, the Chairmanship of one or more important section, the Secretaryship of one section, etc., the latter honor having been conferred upon the editor of *Daniel's Texas Medical Journal*, the American Secretaryship of the section on Dermatology. For ten years Dr. Daniel has confined his practice solely to that branch of medicine. He is a member of the Texas State Medical Association, and for five years was Secretary, resigning the office in April, 1891, because of internal dissensions amongst the members, growing out of certain *Journal* criticisms of certain members for conduct which he considered unbecoming any member of a legitimate medical body. In 1885 was Secretary Association American Medical Editors, and, by invitation, delivered an address before that body in New Orleans, in May, 1885.

He has never sought nor held other office. He is medical examiner for several mutual benefit associations, such as the K. of H., etc., and is State Medical Referee for the Manhattan Life Insurance Company. Is an Episcopalian in religious faith. Four children are living.

Dr. Daniel lives a quiet life, devoting his attention entirely to the publication of the *Texas Medical Journal*, his practice, and to the care and education of his daughters. The

*Journal* has been a success from the first, and is now a valuable property, paying a comfortable income.

It is generally conceded that Dr. Daniel, through his efforts in behalf of legitimate medicine, has done more toward organizing and otherwise advancing the profession in Texas than any other one person, and the profession recognize this fact and show their appreciation by a liberal and remunerative patronage bestowed upon the *Journal*.

He is a member of the Medico-Legal Society, and will take part in the American Medico-Legal Congress of 1893.

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### HON. ARTHUR F. EGGLESTON,

HARTFORD, CONN.

Arthur F. Eggleston was born in Thompsonville, Conn., October 23, 1844. He entered the Union Army when only 17 years of age. Afterwards prepared for college at Monson Academy, Monson, Mass.

He was graduated at Williams College in the class of 1868. Studied law and was admitted to the Bar at Hartford, Conn., where he has since resided, actively engaged in the practice of his profession. He was a member and President of the Common Council of Hartford. For six years he was Judge of the Municipal Criminal Court in that city. He was appointed States Attorney for Hartford County in 1888, which office he still holds.

He is also Treasurer of Hartford County, and has been, continuously, for ten years. He has been engaged as Counsel in the trial of numerous important medical cases, some of them celebrated, embracing the contests of wills, personal injury cases, cases of homicide, and malpractice surgical cases, and is greatly interested in the department of medical jurisprudence.

He is a member of the law firm of Buck & Eggleston, his

partner being Hon. John R. Buck, who was for several terms a member of Congress from Connecticut.

Mr. Eggleston occupies a leading position at the Bar of his State, is a graceful and forcible speaker, and is conceded by his enemies to have rare qualifications for his present position.

He is a member of the Medico-Legal Society, of New York.

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### JUDGE ABRAM J. DITTENHOEFER.

A. J. Dittenhoefer was born in Charleston, South Carolina, in March, 1836. His parents moved to the city of New York when he was four years old, and he has resided there continuously since. After first receiving a public school education he entered Columbia College Grammar School and subsequently the College, whence he graduated. He was there at the head of his class and received, at every examination, a prize for Latin and Greek, in which he displayed such proficiency that the famous Professor Anthon referred to him as his "Ultima Thule." At the age of twenty-one he was admitted to the Bar, soon made rapid progress, and within one year thereafter was selected by the Republican party for Justice of the Marine (now City) Court. Some years later he was appointed by Governor Fenton a Judge of that Court, to fill the vacancy caused by the death of Judge Florence McCarthy. After the expiration of his term he declined a renomination. While on the bench he donated the entire salary to the widow of his predecessor, who had been left in destitute circumstances. In 1860 he was elected Presidential Elector of the State of New York, and had the honor of joining with the other electors in casting the vote of the State of New York for Abraham Lincoln, with whom he was on terms of friendship. He was offered by President Lincoln the position of United States Judge for the District of South Carolina, which he declined, being unwilling to give up his large practice in the City of New York. He was ap-



pointed by the Republican State Convention a delegate to the Cincinnati Convention which nominated President Hayes. He has served as Chairman of the German Republican Central Committee for twelve terms, and has wielded considerable influence in the councils of the party. As a lawyer, Judge Dittenhoefer has gained high reputation, being often engaged in most important cases. While his services have been required in all branches of the legal profession, he has been conspicuous in theatrical litigations, and is recognized as an authority on the law relating to the drama and the stage. There have been few cases of this character in which he has not appeared upon one side or the other. He procured the incorporation of the influential association known as the Actors' Fund. He was chiefly instrumental in securing the repeal of the law which for twenty-five years gave to the Society for the Reformation of Juvenile Delinquents the license fees collected from the theatres of the City of New York. A large portion of these fees have ever since been donated by the city to the Actors' Fund. In recognition of these services he was presented with a testimonial, and elected an honorary member. He has also been counsel in many commercial and corporation cases of great importance and represented the Board of Aldermen when they were indicted for violating the charter in granting permits for the erection of newspaper stands on the streets. He succeeded in quashing that indictment. He also represented the Excise Commissioners when they were indicted and was finally successful in having the indictments quashed. He has been prominent in all the United States Courts and in important criminal trials.

He succeeded in establishing in the case of Rauscher in the Supreme Court of the United States the doctrine, which for twenty-five years had been controverted by our Government against the contention of the English Government, that a person extradited for one offence cannot be tried for an-

other. This has become a leading case and has acquired international distinction.

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### DAVID JOSIAH BREWER.

ASSOCIATE JUSTICE SUPREME COURT OF THE UNITED STATES

Judge Brewer was born in Smyrna, Asia Minor, June 20, 1837. His mother was the sister of David Dudley Field, and his father was Rev. Josiah Brewer, an early missionary to Turkey. He graduated at Yale in 1856, and from the Albany Law School in 1858, and commenced the practice of the Law in Leavenworth, Kansas, in 1859. He was Probate and Criminal Judge of Leavenworth County from 1862 to 1865, from 1865 to 1869 was Judge of the District Court, and from 1869-'70 was County Attorney of Leavenworth County.

In 1870 he was elected a Justice of the Supreme Court of Kansas, re-elected in 1876—in 1882. In 1884 he was appointed Judge of the Circuit Court of the United States for the Eighth District, and on the death of Hon. Stanley Matthews in, 1889, he was appointed Associate Justice of the Supreme Court of the United States, in December 18, 1889, which position he still holds.

He is a member of the Medico Legal Society, and takes an interest in Medical Jurisprudence.

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### JOHN ARTHUR FOSTER,

CHANCELLOR OF THE SOUTH-EASTERN DIVISION OF ALABAMA.

Chancellor Foster was born on the 11th day of November, 1828, in Montecello, Jasper County, Georgia. He graduated at the University of Alabama, at Tuscaloosa, on August 11, 1847. He studied law in 1847 and 1848 in the office of Hon. Harry I. Thornton, formerly one of the Justices of the Supreme Court of the State, at Eutaw, Ala.

He then went to Crawford and Columbus, Mississippi, where he was engaged in teaching in the high schools, and where his success was such that in 1855 he was chosen

President of the Southern Female College, at LaGrange, Georgia. In January 1859, he was admitted to the Bar of the Supreme Court of Alabama, by S. F. Rice, Chief Justice, and George W. Stone and A. J. Walker, Associate Justices. At once he began the practice at Clayton, in Barbour county, where he has ever since resided, and where he now lives. Hon. Jere N. Williams was his partner in the practice until they were called to enter the Confederate Army.

He became the Captain of Company G., 29th Ala. Reg't, in which he served until the end of the war between the States. He was in Mobile, Pollard, Pensacola, and was sent with the regiment to Johnston's army at Resaca in Georgia, in May, 1864. He was with that army at the battles of Resaca, and down to Atlanta, and the battles around Atlanta and Jonesboro, receiving a severe wound through the arm. His regiment was severely punished at Atlanta on 28th of July, he being in command. He also was with Hood with the regiment in the campaign to Nashville, and suffered heavily at the battle of Franklin. On the 15th of December, 1864, he commanded the regiment as support to artillery on the extreme left, around Nashville, and after an all-day battle, was captured with the regiment and sent to Johnson's Island, where he remained a prisoner of war until the close of the struggle.

In January 1866, upon the reorganization of the Courts, he was appointed Register in Chancery by Chancellor N. W. Cocke for the Chancery District, composed of four counties. Upon reconstruction in 1868, the Republican Chancellor, B. B. McCraw, retained him in the office. In 1874, when Chancellor N. S. Graham was made Chancellor, he was again reappointed, and remained in office until August, 1878, when he resigned to take his seat in the legislature, to which he was then elected. In 1875 he was elected as the colleague of Hon. James L. Pugh (now Senator from Ala-

bama) to be a delegate to the Constitutional Convention, and as such actively participated in the formation of the present Constitution of the State.

In August, 1880, he was elected Chancellor of the Southern Chancery Division of the State. There were only three Divisions of the State, each of which contained 22 counties.

Both Montgomery and Mobile were in his Division. In 1886 he was re-elected Chancellor of the Southern Division, and is now serving his second term of six years, which will terminate in November, 1892. During the session of the legislature in February, 1887, the growth of the State in wealth and population and in litigation induced the formation of another Chancery Division, and the number of counties in each was reduced to 16.

In February, 1887, Chancellor Foster was attacked with inflammatory rheumatism, which stiffened his limbs and rendered him a cripple for life, and which disease was severe and protracted. But the disease was articular and did not impair his nervous system, and he is now in splendid health and vigor, no vestige of the disease remaining except the stiffness of limb.

In 1882 the degree of LL. D. was conferred upon him by the A. and M. College, of Alabama.

He was appointed one of the Trustees of the University of Alabama in 1876, and continued to act in this important and distinguished position until July, 1890, when he resigned.

Chancellor Foster is said to be a fine scholar. He keeps up a knowledge of the Latin and Greek languages, and is said to be as familiar with Homer and Horace and Herodotus as those who still teach them. He also reads French and Spanish fluently, although never having been so situated that by practice he can converse well in these languages. His character as man and as a lawyer will be understood

when it is said that he has discharged all the trusts confided to him with fidelity and satisfaction to the people. An examination of his record as a Judge will show what he has done on the bench. His cases have been reviewed from 66 to 91 volumes of the Alabama Reports.

It will not be contended that the reversal or affirmance of a Chancellor's decisions are a reliable index to his learning and ability on the bench. The great number of cases which are to be determined by him as he travels from county to county, holding from 35 to 40 terms of the Court each year, and traveling thousands of miles by rail and by private conveyance, makes it a matter of necessity that in Chancery suits questions must be decided without time for full and deliberate investigation. But notwithstanding this fact, an examination of the cases reviewed will show that the Chancellor is a man of learning and ability, and of his fidelity, impartiality, and firmness there has never been the least question.

In the future history of the State her people can point with satisfaction and pride to his conduct on the bench.

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### JUDGE MATTHEW P. DEADY.

ASSOCIATE JUSTICE SUPREME COURT OF THE TERRITORY, AND  
UNITED STATES DISTRICT JUDGE.

Judge Deady is a native of Maryland. He was born at Easton on May 12, 1824. When but a mere child the family moved from Maryland to Ohio. Like many other successful Western men, he commenced his career as a teacher.

In 1845 he began to read law in the office of Judge William Kennon, of St. Clairville, Ohio—"a good man, and a great lawyer." In 1847 he was admitted to the bar. In the spring of 1849 he started "across the plains," arriving in Oregon on the 14th of November of the same year.

His first employment here was in the capacity of teacher in the school established by Professor Lyle at Lafayette.

In 1850 he began the practice of his profession, and in the same year was elected a member of the House of Representatives from Yamhill County. He served his constituents so faithfully and with such earnestness and integrity of purpose that he was elected to the council in the succeeding year, defeating David Logan, then, as subsequently, a noted and distinguished man. He served in the council during three sessions—two regular and one special—and was President of that body during the session of 1852-'3.

In 1852 he married Miss Lucy A. Henderson, daughter of the late Robert Henderson, of Yamhill County.

In the spring of 1853 the subject of this sketch was appointed one of the Judges of the Supreme Court of the Territory of Oregon. He organized the courts in the five counties of Southern Oregon, and began that career upon the bench of which any man might be justly proud.

In 1857 he was elected one of the sixty delegates chosen to frame a constitution and was chosen President of the Constitutional Convention. The constitution framed by the convention was adopted by the people. Upon the admission of the State into the union he was appointed United States District Judge, and he was elected, without opposition, one of the Judges of the proposed State, and declined the former place.

In 1862 Judge Deady, ex-Senator James K. Kelly, and Governor Addison C. Gibbs were appointed Code Commissioners for the State. The last two took no part in its preparation. In September of that year the Legislature enacted the Code of Civil Procedure substantially as it came from the hands of the first named gentleman. He was also the author of the General Incorporation Act.

The Legislature of 1862 requested Judge Deady to pre-

pare the Code of Criminal Procedure and a Penal Code. Complying with this request, he submitted his work to the Legislature in 1864, and it was adopted. The Legislature then requested him to compile all the laws and legislative acts of Oregon then in force. This he did and gave to the world the compilation of 1864. By this, for the first time, the laws of Oregon from 1843 to 1864 were put in convenient and accessible shape. In 1874, at the request of the Legislature, he and Lafayette Lane made a similar compilation.

From the time of his appointment to the federal bench Judge Deady has practically been the Judge of the Circuit Court as well as of the District Court.

Besides his judicial labors, Judge Deady has found time to prepare and deliver many addresses and lectures, and much literary matter for the press. With the Library Association of Portland and the University of Oregon his name is inseparably connected.

The History of Portland thus speaks of Judge Deady:

“Coming to Oregon in the flower of his early manhood, he has grown with the growth of his adopted State and strengthened with her strength. His hand and mind are everywhere seen. In her constitution, her laws, and her policy. Her material advancement has been greatly promoted by his efforts, and his name will ever remain indelibly impressed on her history.”

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### ROBERT J. NUNN, M. D.

Dr. Robert J. Nunn was born December 13, 1831, in Wexford, Ireland, and was educated in a diocesan school.

In 1845 he was apprenticed in the Wexford County Infirmary, and in the same year was an articled pupil in the Royal College of Surgeons. In 1846 he entered Apothecaries Hall. In 1851 he came as step-surgeon to Savannah, Ga.,

and in 1854 graduated from Savannah Medical College, and was sent by the City of Savannah to Norfolk, Va., in the yellow fever visitation of 1858. In 1856 he lectured on Pathological Anatomy in Oglethorpe Medical College, and was called to the Chair of Materia Medica and Therapeutics in Savannah Medical College in 1870, and in 1881 was Professor in same college of Theory and Practice of Medicine.

In 1876, his health failing, he went abroad, but on the breaking out of yellow fever in Savannah, he instantly returned and took an active part in controlling that scourge. The Georgian Medical Society took thereupon the following action :

At a meeting of the Georgia Medical Society, held November 8, 1876, the following resolutions were unanimously adopted :

*Resolved*, At a late meeting of the Georgia Medical Society we expressed the deep obligation we felt to the medical gentlemen from abroad who so kindly came to our aid. To one of ourselves, for many years an active member of this Society, endeared to all of us by kindly associations, we feel that in an especial manner our thanks are due. Dr. R. J. Nunn, months since worn out and debilitated by incessant labor, extending over many years, had left the city for a prolonged European tour in order to regain and restore his health. After an absence of only a few months, when he learned of our distressed state, and of the deadly pestilence raging in our midst in the city where he had passed his professional life, he at once sacrificed his own pleasure and came first to our assistance, and to this time has worked with untiring energy. We deem such conduct worthy of emulation by our profession, and now that the epidemic may be said to have ceased, and he is again going to leave, probably for years, we bid him God speed.

*Resolved*, That these resolutions be spread upon the minutes and published in the city papers.

*Hae Olim Meminisse Juvabit.*

Dr. Nunn has been President of the Medical Association of Georgia, of the Georgia State Medical Society, and Vice-President of the American Microscopical Society. He is a member of the American Medical Association, Southern Surgical and Genealogical Society, Eclectic Therapeutical Association, American Academy of Political and Social Science, the Medico-Legal Society, and a large number of



other scientific and social organizations, and he is a member of the International Medico-Legal Congress of 1893, and will read a paper before that body. He is a writer on medical subjects, and has contributed to the literature of medicine, microscopy, medical legislation, and surgery for the contemporaneous medical press.

He is at the head of his profession in Savannah, where he has always resided.

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### J. T. SEARCEY, M. D.

Dr. James T. Searcey was born in Tuscaloosa, Alabama, in 1840.

He graduated at the University of Alabama in 1859. He enlisted in the War of the Rebellion, in the Confederate army, when his State seceded, and served during the war.

After the close of that struggle he commenced the study of medicine and graduated in the University of New York in 1867. Returning to Alabama, he engaged in the practice of his profession, where he speedily attained prominence.

He is an able writer and a frequent contributor to Medical and other journals, has a fine style, and is a close student and observer.

He has a taste for psychological subjects, and is an expert in nervous and mental diseases.

He was an intimate friend and co-worker of the late Dr. Peter Bryce, was a member of the Board of Trustees of the State Hospital for the Insane of Alabama, at Tuscaloosa, and was closely identified with the work and management of that hospital.

No man of his years stands higher in the Medical profession of Alabama than Dr. Searcey, and on the death of Dr. Bryce he was unanimously chosen to succeed him as superintendent of that hospital, a position he now holds.

He is President of the State Medical Association of Alabama ; a member of the American Medical Association ; of the Medico-Legal Society, of New York, and will take part in the American Medico-Legal Congress of 1893.

Dr. Searcey is in the prime of his intellectual life, and is now advancing in a career of great activity and usefulness to his profession.

# MEDICO-LEGAL SOCIETY.

## OFFICERS FOR 1892.

### *President,*

H. M. SOMERVILLE, Esq.

### *1st Vice-President,*

PETER BRYCE, M. D.

### *2d Vice-President,*

ALBERT BACH, Esq.

### *Vice Presidents for the States, Territories and Provinces.*

Alabama—Judge Thos. W. Coleman, Montgomery.  
Algeria—Dr. C. Perrounet, Algiers.  
Arkansas—P. O. Hooper, M.D., Little Rock.  
Austria—Prof. R. Krafft-Ebing, Vienna.  
Belgium—Dr. Vleminckx, Brussels.  
California—W. W. McFarlane, M.D., Agnew.  
Colorado—Prof. J. T. Eskridge, Denver.  
Connecticut—Dr. Henry P. Geib, Stamford.  
Cuba—Dr. Venancio Zorilla, Havana.

Delaware—Gov. T. S. Biggs.

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## MEDICO-LEGAL SOCIETY.\*

ADDRESS OF THE RETIRING PRESIDENT, EX-JUDGE HENDERSON  
M. SOMERVILLE.

The recurrence of this anniversary festival of our Society crowns the beginning of a new year in our history.

The old year is gone with its buried memories, its successful achievements, on the one hand, and its disappointing failures, on the other. As we look back and listen, the faint echoes, as it were, of the midnight chimes of its Cathedral bells fall on our ears, sadly tolling the departure of the Old year and merrily ringing in the New. We extend the proverbial *adieu* to one and welcome to the other.

The occasion furnishes a suitable opportunity for your retiring President to make some brief allusion to the work of the Society during the past year. It is pleasing to report that some progress has been made in the study of forensic medicine, the advancement of which is our highest purpose.

No subject appeals to our compassion so much as the care and treatment of the insane. Babylon, in all her desolation, never presented a spectacle so awful as "a human mind in ruins." This department of psychological medicine has received especial attention at the hands of this Society. There are those among us who favor a more humane treatment of these unfortunate victims of disease. Time has been when insanity was regarded as a *crime*, and not a *disease*. Those who had lost their minds were held to be possessed of demoniacal spirits, or punished for witchcraft. They were put in chains and incarcerated in prisons. Often

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\*Delivered January 19, 1893.

they were carried to the scaffold and executed as convicted felons. A new school of medical superintendents, and other alienists, are rising up all over the world, who demand the abolition of mechanical restraining apparatus in the treatment of the insane. They have cast away the comesoles, bed-straps, and other cruel appliances for bodily restraint, and turn these victims of mental disease loose from their prison-cells, put them under the care of humane nurses, and treat them as sick persons, no longer as convicts.

The society has given this subject a most thorough discussion during the past year. A symposium of views has been held at two or three different meetings, in which the opinions of the most eminent specialists on both continents have been elicited. It is believed that this discussion has accomplished great good, and will prove the happy harbinger of a more enlightened and humane management of the insane hospitals of this country.

So, in like manner, we have not abated the agitation of the great question of the criminal responsibility of the insane. No juridical heresy was ever so absurd as the "right and wrong test of insanity," as it is called. Our insane hospitals all over America, as in England and Germany and France, are filled with persons confessedly insane who can distinguish right from wrong, but who possess no power to adhere to the right and avoid the wrong. They have no more power to resist certain proclivities to crime than a falling stone to resist the force of gravitation, or the sparks to fly upward. They are nevertheless held culpably liable by the American and English courts for the prescribed penalties of crime, as if they were sane. Germany has wisely abolished this rule, which originated centuries ago, in ignorance of the true nature of the disease of insanity. France has followed her example, and, while the courts of England theoretically adhere to the old rule, the executive depart-

ment of that government is to-day practically carrying out the modern doctrine that victims of brain-disease, who violate laws under the duress of some irresistible power which destroys their faculty of volition, are not to be held criminally culpable. This is the doctrine of the whole medical world who are intelligently informed on this subject. Some of the courts are acknowledging the truth of it, and others will attain to a judicial knowledge of it in course of time. One mission of our Society is to struggle for the establishment of this humane principle of medical jurisprudence so long as we feel a conviction of its truth.

Another step has been taken by the Medico-Legal Society in the interest of science. During the past few months a Psychological Section has been established, under the especial direction of our present distinguished Secretary and former President, Clark Bell, Esq. One of its purposes will be to energize the investigation of hypnotism and hypnosis in their relation to crime—that peculiar psychological condition sometimes known as the “New Mesmerism,” which has been illustrated during the past year by the trial in the courts of France of the famous Mlle. Bompard. That trial elicited the opinion of many of the most learned alienists in France, and excited the general attention of philosophic students throughout the world.

In the prosecution of our labors in these fields of medical jurisprudence we should be encouraged by the general progress which is everywhere being made in all departments of science. History tells us of the Dark Ages in Europe. We have lived for a half century in the age of Steam. To-day we are living in what may be pre-eminently called the age of Electricity. As electric lights are illuminating our cities, and making them almost as bright as the day, like so many suns created by the ingenuity of man, so the electric lights of knowledge are ever dispelling the darkness of human ignor-

ance all over the civilized world by the universal diffusion of intelligence. A telegraph station to-day occupies the site of the Garden of Eden, where, sixty centuries ago, our first parents, appalled in their rude garments of fig-leaves, and, neither toiling nor spinning, idly listened to the songs of the morning stars.

Archimedes once declared to Hiero, King of Sicily: "Give me a place on which to stand, and I will move the world!" The engineers and philosophers of science are every day discovering this standing place longed for by the old Greek, and they are, by their discoveries and discussions, moving the great world of thought. Astronomers are planting their observatories on the peaks of the loftiest mountains, and with their huge telescopes they are peering into the heavens as never before. They behold mountains of snow and glaciers of ice in Mars, with oceans and rivers. They have discovered a new satellite for Jupiter, and have become so familiar with comets as no longer to regard them, like our ancestors did, as divine harbingers of dread pestilence, famine, and war.

Whether man fell by his own folly from the station of the angels, or rose by his own energy from an animated protoplasm, there is no denial of the fact that he is every day becoming wiser. He is hourly growing in knowledge, and "knowledge," as said by Bacon, "is power." The superstitions of the past are being discarded. The crystallized errors of ignorance are being broken in pieces, and the world of science and of thought is made to speak with new voices of harmony, just as the statue of Memnon was said to have given forth musical sounds only when broken.

There is much, in all these things, to encourage us in our labors as students of forensic medicine. The sons of science are rapidly climbing the rugged heights of Parnassus, and they are stopping by the way-side only so long as necessary



to quench their thirst from the Castilian founts of knowledge. No man should be a laggard in the ranks of this great army of struggling thinkers, but the cry should be "onward" and "upward" until the tallest peaks are reached. As the poet has well said:

"We should count time by heart-throbs. He most lives  
Who thinks the most, feels the noblest, acts the best."

## INAUGURAL ADDRESS.\*

BY EX-JUDGE ABRAM H. DAILEY, PRESIDENT-ELECT.

*Gentlemen of the Medico-Legal Society of New York, and Ladies and Gentlemen :*

In obedience to custom, I beg your attention to a few remarks in entering upon the duties of the office to which I have been elected. It was with much reluctance that I permitted the use of my name as a candidate for the honorable and responsible position of President, and my concern increased when I was informed that I was the only nominee, and there was a bare possibility of my election. Judge Somerville, my predecessor, an eminent jurist and alienist, declined a re-election, and retires with our gratitude for his excellent administration. He brought to the place qualifications which I do not, and takes with him what I fear I shall not—the regrets of this Society upon his retirement. Thanking you for your kindness, imploring your patience and forbearance, I will give expression to a few thoughts which I deem appropriate upon this occasion.

This and kindred societies have not been formed a day too soon. They are born of the necessities of our times, and the scope of their labors enlarges each year. The membership is made up of thinkers and workers. Were I asked of what communities are composed, I would say of thinkers, workers, drones, idiots, and lunatics. I shall not deny that an observer may also be a thinker and worker; nor shall I deny that drones do sometimes think. Still I think my classification substantially correct. There are millions who can

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\*Delivered January 19, 1893.

scarcely be called observers. They simply live, groaning when in pain, laughing when pleased. They come into the world and go out of it, leaving it little better or worse for having been here. The man who really observes, thinks; and we have millions of these, but they do little or no public work along the line of their thoughts. They are the chronic grumblers of the age. They complain of high taxes, they condemn the corruptions of the times, but refrain from originating or participating in movements calculated to remedy the evils they complain of. They frequently damn and scratch the names of some of the candidates for office, which usually counts for nothing in the general result. There are a few men, and women also, who are not only observers, but they are thinkers and workers; and they are the charioteers of progress, or the stumbling blocks to advancement, depending upon the motives by which they are actuated. The world's great leaders are comparatively few in number. It is by observing, thinking, and reasoning that methods are devised, and by working they are applied. This has been productive of those evolutions which have marked the upward tendency of the human race. The power of knowledge in the individual is lessened as it becomes diffusive in the race. It seems unquestionable, that the infinitude of time and space, is equaled by the infinitude of changes and conditions which are ever rising before us. If life shall be found to be a persistent, indestructible, individualized, intelligent force, then the astounding problems which confront us here are to be multiplied by others, with endless opportunities for solution. The rational conclusion then must be, that every advance is progression, productive of profit alike to the pioneer in thought and discovery, and to the world at large, which follows to enjoy the benefits of his labors. It is a mistake to seek to limit the duration of life. It tends, if not to destroy, at least to weaken the in-

centives to the highest aspirations; to the noblest exertions to attain to the utmost limit of excellence in earthly existence. Being a devotee to truth, irrespective of consequences, as a rule, I have no reverence for negations, as such, but great respect for affirmations, which tend to give us hope for the realization of our natural desires for a continuity of life, and for the utmost happiness reasonably attainable in every stage of existence.

Whether the instincts with which men and animals are born are transmitted as the result of the experiences of progenitors, in their struggles for life, we will not now discuss, but certain it is that the dawning consciousness of existence has been immediately followed by the application of the reasoning faculties of the mind to surrounding conditions and circumstances, which has resulted in what seemed appropriate action in the individual. Ignorance is the absence of knowledge upon the same principle that darkness is the absence of light, and man must grope his way in either condition. Man has had more difficulty in attaining knowledge of himself than of the elements around him, and I think it must be conceded that no man has yet discovered just who and what he is. Whence, whither, and why, are unanswered questions. We live only in the present, and yet these questions are ever rising in our minds; they are problems of doubtful solution. There is no such thing as individual independence. Everything in nature is dependent, and we unquestionably are individualized parts of a common whole. So long as there was but one man in existence, if there was such a time, he neither owned nor controlled the rest of the universe, but it owned and controlled him upon the principle that the lesser is subordinate to the greater. If he violated the laws governing his own being, he incurred and received the penalty of ignorance or disobedience, and took his first lesson in the school of experience. The moment that man

found he had a brother his obligations increased. They mutually discovered that each had rights which the other ought to respect. When the third man came, there was an umpire to decide questions in dispute, and the application of legal principles, as perceived by the human mind, was called for, and the first court of justice was established. Coke, Blackstone, and Kent had not then given their treatises to the world. Letters were unknown, and how frequently resort to brute force was had, in utter disregard of the rights of others, can be imagined from the tendencies of men in that direction, in these days of lauded civilization.

Necessity, by our most distinguished biologists, is believed to have produced many of the distinguishing features in all the varied forms of life. Unquestionably it has been the moving cause of the forming of communities, the construction of States, and the building of nations. The right to protection against impending danger is indisputable. In briefly mentioning the few subjects which I have in mind, I desire it to be understood that I am speaking from the standpoint of the greatest good to the greatest number, and that I am opposed to the abridgment of any individual right, not born of necessity.

The structure of the law has grown with the wisdom and necessities of man. It is complex, because the relations of individuals and communities are complex. Like medicine, it came to us burdened with many of the barbarisms of the people who gave it its forms. It is cumbered with the superstitions, unjust discriminations, and inequitable limitations of times we are outliving, and ought to have outlived long ago. The health of man and beast requires recreation and rest. Change of the current of thought is essential to sound mental equipoise. The securing of one day in seven for recreation and rest is none too much; but the abridgment of the right of the individual to select his own methods

within the bounds of morality, and respect for the rights of others is an outrage upon individual liberty. It is the proscription of individual rights in obedience to the usurping judgment of others. If it be the judgment of the best medical minds that our museums, art galleries, and places of amusement are useful and essential for recreation and rest to those who can and are able to attend six days out of seven, is it not an act of injustice to that large and hard-working class which has only that seventh day at its disposal, that these shall be closed against it on that day? Our statute books should no longer contain penal laws against what the growing liberal mind of the community believes to be essential for general welfare.

The observing medical practitioner has discovered the bent of the minds of insane persons. He has traced their causes, and finds a large percentage chargeable to overtaxed energies of the patient, by a continuous mental strain in a given direction. There are monomaniacs on our streets as well as in our hospitals. There is not an organ in our bodies that may not be paralyzed or impaired by overwork. Ignorance of danger, as well as our necessities, often leads us to peril health and life to accomplish our purposes. We take the chances and receive the penalty. The sinner is not the only one who suffers when the law of nature or the law of the land is violated. The whole community is affected. The man who sins against his own nature is morally as guilty as he who breaks the law of the land, and often more so; for by the laws of heredity he may transmit to his posterity predilections to crime or the germs of disease to curse the world and cause his children to curse him. The humanity of our natures makes it a duty to care for the insane and the poor who cannot take care of themselves, and necessity compels us to take care of the criminal. It is a duty which should not be shirked that we remove the causes as far as

practicable which are productive of crime, disease, and poverty. How is that to be done? Will it be considered inhuman to suggest the remedies of the nurseryman when his plants are diseased? Perhaps so, for we cannot deal with humanity as with lower orders of creation, but certainly we can discuss the propriety of the perpetual seclusion of born criminals, and restricting the marriage of epileptics and persons afflicted with certain classes of transmissible diseases.

We are on the eve of opening in the center of our country to the inspection of the world the most wonderful collection of productions the works of man and nature ever made. Prodigious efforts are being made to make it an instructive and civilizing affair, which shall bring the nations of the world into more peaceful and happy relations. The fame of our prosperity has reached to the utmost part of the habitable globe, and people from every nation are pouring in, seeking to become a part of us, and their number is ever increasing. Cholera, that most dreaded scourge, for the last two years has followed the tracks of the emigrant, through villages, towns, and cities, and death has made an abundant harvest. The virulence of the disease is such that the cold and frosts of winter have failed to subdue it, and the early spring bids fair for its reappearance in such a malignant character as to make heavy restriction on travel from Europe to this country imperative. Such a misfortune must be exceedingly disastrous to the exposition, but worse than that, but a few months can intervene before, in all probability, our quarantine will be filled with cholera victims, anxious to escape to land. The dread of our people of the consequence of a cholera visitation is fully justified by the dangers to be apprehended. We are at the great port of entry of the Western world. Our quarantine laws should be ample to enable our Boards of Health to meet such emergency, and our

quarantine service should be all that care, skill, and science can make it. But what should it be, and what can care and skill make it? And are our laws all that they should be in these respects? Should not the man who does not care for votes, but for the wants of the people have greater powers in times of peril?

For one, I would like a thorough and scientific discussion of the proper disposition of our dead from a medico-legal standpoint. That the germs of disease are planted in our graveyards, to come forth and infect the living, perchance after the lapse of many years, cannot be rationally questioned. All of which to my mind, but for a prevailing sentimentality, could and would be prevented by the adoption of a proper system of cremation.

I am glad a move has been made, creating a section for psychological research, as auxiliary to this Society. It is a subject which cannot well longer be ignored. If newspapers tell the truth, a court in a sister State has been taking testimony by hitherto proscribed methods. A man, said to have been hypnotized, has been giving evidence against himself. This may hasten the examination of the subject, of the potency of mind upon mind, and of the nature, power, and effect of the will of one person over the actions, conduct, and thoughts of another from comparatively new standpoints. I exceedingly deprecate any effort to restrict the practice of this or any other natural gift or power to any one class of professional men, before we are better informed of its nature, and are made to understand why it is safer in the hands of one than another. Lawyers, doctors, scientists, and jurists there are who do not believe hypnotic power exists, and yet our courts are constantly receiving evidence of undue influence, affecting the validity of important written instruments, and the acts of persons in various transactions of life. Is this influence hypnotic, and can it be traced and demon-



strated? It is claimed by persons of great responsibility, that they have both witnessed operations and experimented with subjects, where ordinarily painful operations are performed without the slightest pain being experienced by the subject, he being in a hypnotic state. If this be true, which I cannot question, while the severest penalty should be visited upon one abusing this power, its development and proper use may be of the greatest benefit to afflicted persons. It is a gift of nature and its exercise should be confined to none. Opportunity to experiment and investigate anything and everything which pertains to man and his environment is demanded by the spirit of the age in which we live. While requiring a high degree of education to entitle a person to practice either medicine or law, all laws affecting either of these or any other profession should be based upon popular demands, rather than the demands of the profession. The right of every sane person to be his lawyer or physician should be absolute. If he suffers as a consequence, the lesson will be salutary. Good lawyers and competent physicians are always in demand, and those who are not are an affliction upon the community. When we consider how confidently people, as a rule, place their lives and interests in the hands of professional men, they merit from these professions the highest degree of skill and wisdom in return, and, as a rule, I believe they receive it. It is our privilege and duty to carefully consider numerous important medico-legal subjects, and give our best thoughts to the public, through the journal published by this Society, for judgment thereon.

## MALPRACTICE.\*

BY CLARK BELL, ESQ.

The law upon this subject may be stated briefly as follows:—

*Malpraxis* may be defined as bad or unskillful practice in a physician or surgeon, whereby the health of the patient is injured.

*Negligent Malpractice* embraces those cases where there is no criminal intent or purpose, but gross negligence in bestowing that attention which the situation of the patient requires.

*Ignorant Malpractice* is the administration of medicines, or the treatment of the disease, fracture, or injury in a way calculated to do injury which actually does harm, and which a properly educated, skilled, and scientific medical man or surgeon would know was not proper in the case:

Elwell's *Malpractice*, 198 and 243; 2 *Bonv. L. Dict.*, 149.

Physicians and surgeons, by holding themselves out to the world as such, engage that they possess the reasonable and ordinary qualifications of their profession, and are bound to exercise reasonable and ordinary care, skill, and diligence, but that is the extent of their liability. The burden of proof is upon the plaintiff in actions for malpractice to show that there was a want of due care, skill, and diligence, and that the injury was the result of such want of care, skill, and diligence:

*Holtzman v. Hey*, 19 Ill. App., 459; *Baird v. Morford*, 29 Iowa, 531; *Vanhooover v. Berghoff*, 90 Mo., 487; *Craig v. Chambers*, 17 Ohio St., 253; *State v. Housekeeper*, 70 Md., 162, and *Leighen v. Sargent*, 31 N. H., 119; also as to last proposition, *Getchel v. Hill*, 21 Minn. 464.

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\*Read before the Medico-Legal Society, March 8, 1893.

The reasonable and ordinary care, skill, and diligence which the law requires of physicians and surgeons are such as those in the same general line of practice, in the same general locality, ordinarily have and exercise in like cases:

Hathorn *v.* Richmond, 48 Vt., 557; Wilmot *v.* Howard, 39 Vt., 447; Utley *v.* Burns, 70 Ill., 162; Ritchie *v.* West, 23 Ill., 385; Almond *v.* Nugent, 34 Iowa, 300; Tefft *v.* Wilcox, 6 Kan. 46; Small *v.* Howard, 128 Mass., 131; Patten *v.* Wiggin, 51 Me., 594, and similar decisions in Missouri, New Hampshire, Oregon, and Texas.

A different rule has been held in Pennsylvania. In McCandless *v.* McWha, 22 Pa. St., 261, the court held that such skill was required "*as thoroughly educated surgeons ordinarily employ*," and a similar view was taken in Haire *v.* Reese, 7 Phila. (Pa.) 138, but the weight of authority is as first above stated.

The locality in which the physician or surgeon practices should be taken into account. One in a small town or sparsely-settled country district is not expected to exercise the care and skill of him who resides and has the opportunities afforded in a large city. He is bound to exercise the average degree of skill possessed by the profession generally in the locality in which he resides and practices:

Graum *v.* Boener, 56 Ind., 497; Kelsey *v.* Hay, 84 Ind., 189; Small *v.* Howard, 128 Mass., 131; Gates *v.* Fleischer, 67 Wis., 504; Smothers *v.* Hauks, 34 Iowa, 286; Haire *v.* Reese, 7 Phila. (Pa.), 138; Nelson *v.* Harrington, 72 Wis., 591.

Physicians and surgeons should, however, keep up with the latest advance in medical science, and use the latest and most improved methods and appliances, having regard to the general practice of the profession in the locality where they practice, and it is a question for the jury to decide from all the circumstances of the case whether the physician or surgeon has done his duty in that respect: VanHooser *v.* Berghoff, 90 Mo., 487.

If a physician or surgeon departs from generally-approved methods of practice, and the patient suffers an injury

thereby, the medical practitioner will be held liable, no matter how honest his intentions or expectations were of benefit to the patient:

*Carpenter v. Blake*, 60 Barb. (N. Y.), 488; 50 N. Y., 606; 10 Hun (N. Y.), 358; 75 N. Y., 12; *Lampher v. Phipor*, 8 C. & P., 475; *Sean v. Prentice*, 8 East, 348; *Slaler v. Baker*, 2 Wils., 359.

Physicians and surgeons are bound to give their patients their best judgment, but they are not liable for mere error of judgment:

*Tefft v. Wilcox*, 6 Kan., 46; *Patten v. Wigger*, 51 Me., 594; *Carpenter v. Blake*, 60 Barb. (N. Y.), 488; 10 Hun (N. Y.), 358; *Wells v. World Disp. M. Ass.*, 45 Hun, 588; and see also *Fisher v. Nichols*, 2 Ill. App., 484.

If the error of judgment is so great as to be incompatible with reasonable care, skill, and diligence, the physician or surgeon would be liable:

*West v. Martin*, 31 Mo., 375; *Howard v. Grover*, 28 Me., 97.

If the patient in any way contributes to the injury by his fault or neglect he cannot recover for malpractice by the physician or surgeon:

*Haire v. Reese*, 7 Phil. (Pa.), 138; *McCandles v. McWha*, 22 Pa. St., 261; *Reler v. Hewing*, 115 Pa. St., 599; *Polter v. Warner*, 91 Pa. St., 362; *Am. Rep.*, 668; *Lower v. Franks*, 115 Ind., 334; *Chamberlain v. Porter*, 9 Minn., 260; *West v. Martin*, 376.

And this doctrine holds where the physical weakness of the patient or his natural temperament is the contributory cause of the injury:

*Haire v. Reese*, 7 Phila. (Pa.), 138; *Simond v. Henry*, 39 Me., 155; *Bogle v. Winslow*, 5 Phila. (Pa.) 136.

Damages may be recovered for pain and suffering produced by the negligence or want of skill of the physician or surgeon, and also for loss of time and expense incurred on account of the improper treatment:

*Tefft v. Wilcox*, 6 Kan., 46; *Wenger v. Calder*, 78 Ill., 275; *Chamberlain v. Porter*, 9 Minn., 260; *Stone v. Evans*, 32 Minn., 243.

## ADDRESS TO PSYCHOLOGICAL SECTION OF MEDICO-LEGAL SOCIETY.\*

BY MRS. C. VAN D. CHENOWETH.

It is well said, "There is but one field of Psychology, and that includes all manifestations of mental life."

The most significant thing in the world of thought, to-day, that which is calculated to mark most powerfully the last quarter of the present century, is the strange pause which our scholars have made before the revelation of our supreme ignorance concerning the laws which govern the life of the mind or soul. Rapid accumulations of facts are being made, and their adaptableness tested upon the commonest and upon the deepest things of life. A complete revolution in educational methods is imminent, and new light is securely anticipated upon the most perplexing questions relating to morality and religion. Not a month passes without its report of the introduction of better methods of observation and of experiment in the Colleges and Universities, of valuable additions to laboratory apparatus and to the breadth and extent of elective courses.

In the great Normal Training Schools for teachers, Psychology is studied only as a branch of pedagogics, with the view to some definite knowledge regarding the contents and the working of the minds of young children.

In conducting a class through a course in psychology a while ago, limited of necessity to a few months, I was happy in the permission to make use of a little primary school conveniently at hand, in order to start the students in the direction of personal observation and distinctly original work. Each was provided with a chart, embracing a series of questions, and each worked quite independently taking her own observations and coining her own answers.

Rejoicing in the genuineness of what they were doing, and only sorrowing that the days afforded were so few and short, there was ground for astonishment at hearing an adverse criticism upon the length of time consumed in original work and the needless number of questions to puzzle out.

Satisfied concerning the time, but wondering whether the chart might be fairly thought elaborate, I sent up to my friend, Miss Margaret K. Smith, the able translator of Herbert, and head of the department of Psychology in the Training School at Oswego, and asked to see the chart which she furnishes to guide her pupil teachers.

It occupies 30 pages of post, and is a delightfully complete and interesting paper, calculated to cover a severe course of study, preparatory to sound, professional work. Mine, on the other hand, was designed to be used later, on lovely little cousins or nieces, thence transferred to enthusi-

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\*Made February 2, 1893.

astic duty in charitable kindergartens, to serve finally, I fondly trusted, a growing fund of maternal knowledge, and the demands of the home nursery.

For, after all, it is the *Nursery*, that great and hitherto almost neglected field, which must furnish to science the starting point from which she may hope to reach definitely, the feeblest beginnings of mental life, aided in her sound start by interested and intelligent mothers.

But is there great cause for surprise in our imperfect understanding of the various phases in the development of mind, when we consider the neglected condition of our physical senses; these humble tools of daily use, so poorly handled and so dull?

We know, in the case of Laura Bridgman, what one highly cultivated sense may accomplish. Picture her for a moment, blind and deaf, her eyes and ears sealed from later infancy; her useful sense of smell and of taste much impaired, if not wholly wanting, and conceive of the difficulty of conveying the simplest facts of daily life to the eager, imprisoned intelligence; of developing the intellect, regulating the emotions, controlling the will, and arousing and stimulating the religious sense to Christian faith, through the medium of Touch alone.

Imagine, if you can, a person in whom each sense is developed to the superlative degree of fineness of Laura Bridgman's sense of Touch, and you have practically a being of another order.

There is wonderful stimulus in the thought of what we may become under a wise development of both the outer and the inner powers.

Fortunately for us the light of new knowledge dawns somewhat slowly, giving ample time for recognition of the sure perils accompanying a larger life.

We realize this in the case of one under hypnotic influence, that condition in which the inner senses seem liberated, when the hearing is abnormally acute, and the sight reaches the state which we call clairvoyant.

The phenomena of hypnotism, in their singular variety, are of course not new. The world has accepted, feared, or derided them through the ages. The key to them seems to have been lost and found again and again.

The poets, it is true, have treated the subject with simple sincerity in poetry's most splendid realm—Shakespeare, Wordsworth, Tennyson—and so have they treated much of the psychological phenomena under present investigation.

But here is this hypnotism at last in commonplace prose, not only respectable, but a duly accredited force, figuring as an anæsthetic for patients under surgical operations. The past suggestions received while under hypnotic influence are found useful in warding off obstinate headaches, or the desire for excessive indulgence in spirituous liquors.

Its laws are still too imperfectly understood to make it trustworthy as a therapeutic agent, in a majority of cases, but its value in the treatment of the insane is attracting notable attention, and its use by unscrupulous persons is threatening the legal profession with new and strange complications in some aspects of criminal law.

In talking with an able physician the other day, who incidentally told me he had made some little use of hypnosis with good effect, I said laughingly:

"The steps, doctor, in so far as I can see them, are:—*First*, Animal magnetism, which we all accept as a fact, under this or some other name; and *Second*, Hypnotism, which one may recognize freely, and no longer be thought peculiar, since science has afforded her shelter; and *Third*, Telepathy, or an interchange of thought, for this last seems a perfectly logical third step. Is it not so?"

Quite to my astonishment, he replied gravely, "We shall probably come to that before a great while."

Professor Sidgwick, of Cambridge University, does not hesitate to declare his belief in telepathy, and many others are constrained to the same opinion, holding, beyond the shadow of a doubt, their ability to speak to a friend in Boston, or in London, simply by an inexpressibly powerful concentration of mental force.

Again, there are those, as we all know, who would urge upon us a belief that this same concentration of soul power may be, and is, exerted by the disembodied intelligence, and manifested unmistakably through some suitable and wholly passive medium.

The ignorance of those of us who are hard of belief is not the limit of knowledge, and though I have never witnessed any manifestation which seemed to me to depend, of necessity, upon the theories of modern spiritualism for its elucidation, still I am deeply interested when earnest thinkers tell me that they have done so.

My Christian faith accepts the idea of a disembodied soul, and in the acceptance of thus much, I am not sure that the rest should be any harder to receive than the fact of hypnotic influence, or any influence of one mind upon another, independent of the aid of the recognized channels of sense.

The assumption is not illogical, certainly. Still, the domain of mind is so vast, it is not possible for any of us to be upon the lookout in more than one or two directions, however heartily we may sympathize with those whose point of view differs from our own.

The Medico-Legal Society has only put itself fairly abreast of the time in establishing a psychological section. The professions are perhaps equally interested in the serious problems waiting for solution, and should, in the nature of things, constitute between themselves one of the very ablest bodies of workers and observers. Their candor and liberality, their trained habits of thought and skill in judging between genuine and worthless evidence, should be of incalculable value in the scientific methods of investigation which the Society will pursue.

# THE CONFLICT BETWEEN PARENTAL AUTHORITY AND THE SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN.

BY HON. ABRAM H. DAILEY, PRESIDENT OF THE MEDICO-LEGAL  
SOCIETY.

In my oral remarks at the installation banquet of this Society, I called attention to the conflict of authority between parents and the Society for the Prevention of Cruelty to Children as a subject meriting its consideration. I have deemed it a duty to open up this subject, by discussing the propriety of interfering with the common-law rights of parents in the management of their children by the society mentioned.

The domestic relation may not, for a slight cause, be interfered with or disturbed. It lies at the foundation of society and civil government. If the marriage relation was entered into with more deliberation and consideration of the adaptability of the contracting parties to each other, and the law more strongly enforced, obedience to its requirements when entered into, it would be far better for all concerned.

Back of all civil and common law, back of all nomadic customs, the God of nature implanted, at least in all animal life, the principle of love of the parent for its offspring and reciprocal affection in the offspring for the parent. Where that love and relation exists, certain rights and duties naturally follow. First, comes the duty of the parent to protect and provide for the infant offspring. Second, the right to govern and control the actions and conduct of the offspring until it has reached the period known as maturity.



The right to control on the part of the parent implies the duty of obedience on the part of the offspring. In all ages, and by all tribes and people of which we have any knowledge, these rights and duties have been claimed, and, as a rule, have been observed and respected. That parents have the right to the services of their children will not be questioned. It follows, unless we assume what does not exist—the right to disregard these innate laws, rights, and privileges—that any law affecting the relations between parent and child which does not tend to enforce these reciprocal rights and duties, but tends to interfere with them, in principle is wrong. The very basis of the law permitting the creation of societies for the prevention of cruelty to children, is signified in its title, in the word “cruelty.” Cruelty on the part of the parent indicates an absence of that natural regard for the child common to most parents, and the law is properly evoked, not to supply parental love, but among other things to protect the child from acts of cruelty on the part of parents who, seemingly, do not possess sufficient regard for their children to restrain themselves from acts of cruelty towards them.

Cruelty signifies abuse, and the law is to be construed in its application, to prevent the abuse of children, and in this sense it is timely and useful. If, however, its interpretation is held to give the officers and agents of these societies the power to determine for themselves acts to be cruel and abusive, in cases where the honest judgment of reasonable men may differ, it is a very dangerous law, and may do more harm than good. The law in question is intended to reach cases of direct abuse, which includes any and every act creating unmerited suffering to an extent outraging the sense of common humanity.

The enforcement of such a law, unless clearly kept within the line indicated, will be an exceedingly delicate matter,

and will, as has already been the case, be very likely to provoke strong opposition, and will seriously impair its great usefulness.

People differ in their views of right and wrong. Up to a certain point they are substantially agreed, but when the domain of ethics is entered they diverge. Early education and the influences surrounding our early lives have done very much to shape our opinions, and we often find ourselves opposed in our views on matters we supposed everybody knew, or ought to know, to be correct. Our opponents, however, may be in the right.

In some persons, ethical principles are so interwoven with extreme religious views, that the religious element so plainly predominates as to discover itself in their acts. In the society we are speaking of great caution should be exercised to give no cause of offense by any religious discrimination. In fact religion, properly speaking, should not enter into the administration of the affairs of that society, any further than to protect every child in the exercise of its religious convictions, when not in hostility to parental rights. The right of the parent to educate his offspring in accordance with his own religious views, until the child has attained years of discretion, must be conceded.

It has seemed to me that this society has, upon several occasions, interfered with the rights of parents, and assumed certain things to be cruel to children where, at least, there was abundant ground for a difference of opinion. In such cases, the rights of the parent and the parent's desire should be respected. Several instances have attracted attention, where public performances were announced in which children were designated to take part, when the officers of this society have interfered in behalf of the children, on the ostensible ground that to permit the performances to proceed would be an act of cruelty to the children. Now, as a matter of fact,

what cruelty is there in premitting a precocious, agile, and healthy child to dance before an audience or to take a part in any drama or musical entertainment adapted to children, when the child is not exposed to danger of physical injury? If we consider for one moment what active, restless beings children are, we must be convinced that they are just what nature intended they should be, and that activity and exercise is with them an actual necessity. From morning till night they are running, walking, climbing, leaping, and sprawling around, putting themselves in all possible attitudes, and to restrain them would, unquestionably, be an act of cruelty. I have in my mind an instance where, a few years since, at a public watering place, the guests at a large hotel were very much entertained by the remarkable feats of two little girls of very tender years. For them to dance and swing and play the tamborine seemed almost as natural as it did for them to walk. The eldest had largely by herself, and only assisted by her mother, who was not a professional dancer, learned how to dance with such grace, agility, and ease as to be able to greatly amuse, interest, and entertain an audience. The smaller one, who was seated upon her mother's lap, seeing what applause and praise had been showered upon her elder sister, the moment an opportunity afforded, leaped from the arms of her mother, seized the tamborine, ran out on the floor, and convulsed her audience with her attempts to imitate the feats of her sister, and that she was able to almost match her, in some parts of her dancing, was a matter of remark and surprise. To these children, dancing was scarcely more of a task than walking, and certainly no more fatiguing than running is to little children of their ages.

The mother of these children was very poor, and was thankful to get voluntary contributions from the guests to help her to pay her own and her children's board. These

children, in the Autumn, came to the city and an opportunity was afforded the mother for an engagement for public performances to be given by them; but, as I am informed, the performances were prevented by interferences on the part of the society I have named. Now the question is squarely presented: What right had any society, or any other person, to interfere with the mother's judgment? Certainly there was no physical suffering to be imposed upon these children by letting them do the things that they most craved and delighted in. So far as cruelty is concerned, it impresses me it was cruel to interfere with the mother's desires, and when we come to consider the necessity of educating these children and of the need of clothing and food, not only for themselves but for their mother, and her lack of means, it seems to me, that the society acted entirely beyond the legitimate scope of its duty, and thereby did a wrong to mother and children alike.

I have been reminded that, in several instances, interference by the Society for the Prevention of Cruelty to Children has been brought about by the influence of some relative more remote than father or mother, and I wish to emphasize the fact that this society has not the right to set aside the rights of parents in obedience to the ideas or desires of other persons, in the absence of actual or impending cruelty to the child, and even then, the cruelty must be something more than apprehension that the influences surrounding the child may have a bad effect when it is grown to mature years. Some children at the age of five or six years are more accomplished in some respects than others ever can be. To say that an exhibition of the powers of little children to play in public upon a violin or the piano, or to dance, when it seems to be a natural gift, is cruelty to such children, is absurd in the extreme.

The long Sunday School parades, sometimes under a burning sun, by little children, do occasion considerable physical suffering, but no one on behalf of the society referred to has ever interfered in behalf of the little children, and probably no permanent injury has resulted. Late evening entertainments, given in churches and at the homes of parents, in which small children take parts, are of constant occurrence, and no one thinks of complaining that cruelty is being inflicted upon the children. As a matter of fact, I cannot escape the conclusion that in many instances, it was not the apprehension of cruelty to the children that occasioned the interference, so much as it was the desire to keep little children from appearing in public stage performances, apprehending that an education for the stage may result eventually, in their moral contamination. If I am correct in my surmises, then such society is acting beyond the legitimate scope of its authority.

The New York Society was, I assume, incorporated under the act of April 21, 1875, which is entitled, "An act for the incorporation of societies for the prevention of cruelty to children." Under this act, no authority whatever is conferred upon any society organized under it, except as a corporation, to have perpetual succession; to sue and be sued; to have a common seal; to appoint officers, managers, and agents, as business may require; to make by-laws not inconsistent with the laws of this State or the laws of the United States for the management of its own affairs; to contract and be contracted with; to take and hold property, and dispose of the same; and to exercise any corporate powers necessary to the exercise of the powers above enumerated and given.

It will be seen that under that act it is given no legislative power, and that all it is authorized to do is to prevent cruelty to children by enforcing existing laws applicable thereto. But by Chapter 30 of the Laws of 1886 such societies were

authorized "to prefer a complaint before any Court, tribunal, or magistrate having jurisdiction, for the violation of any law relating to or affecting children, and may aid in presenting the law and facts before such Court, tribunal, or magistrate in any proceeding taken. Any such society may be appointed guardian of the person of any minor child during its minority by a Court of Record of this State, or by a Judge or Justice thereof, and may receive and retain any child at its own expense upon commitment by a Court or magistrate.

"All magistrates, constables, sheriffs, and officers of police shall, as occasion may require, aid the society so incorporated, its officers, members, and agents in the enforcement of all laws which now are, or may hereafter be, enacted, relating to or affecting children."

While this last act conferred upon such societies additional privileges and powers, and enabled them to become the virtual custodians of children committed to their hands, it gave them no power to determine for themselves what is cruelty, nor to bind others by their own construction of the law. But it did give such a society the authority to receive and retain any child, at its own expense, by commitment by a Court or magistrate, and it does make all magistrates, constables, sheriffs, and officers of police, subject to the commands of any such society, its officers, members, and agents in the enforcement of all laws relating to children or affecting them. That such a law is very likely to be misconstrued, and the power given is likely to be abused, is very apparent. The law does not give the society, nor its officers, any power to interfere with parental control unless the child is being subjected to cruelty *in violation* of law; then its duty is to enforce the penalty of the law against the offender.

The most startling feature of the act of 1886, is the power given to magistrates and Courts to commit any child to the

hands of such society, which is authorized to receive and *retain* the same. No provision is made in this act for preferring a charge of cruelty against the person in whose custody the child may be, no hearing or form trial is required, no offense against any person need be alleged before some magistrate can commit any child to the hands of one of these societies, which can retain the same. If a child be taken from the custody of its parents, and committed under the provisions of that part of the act to which I am referring, if a substantial right is not taken from those parents, and if that child is not restrained of its liberty, without due process of law, and without having violated any law, and without an opportunity of being heard, where a violation of law is claimed, then it is impossible to conceive of a case where such a state of facts can exist. Parents have vested rights in their children, to their society and earnings, aid and assistance, and whoever deprives them of those rights, without due process of law, is amenable to the law, and the officer of such a society who retains a child against its consent, and the consent of its parents, without due process of law, restrains that child of its liberty.

If any society purposes to interfere with parental authority over a child, by not permitting such child to give any public exhibition, upon the ground that the exhibition tends to make the child immoral, it certainly cannot find its authority under the provisions of the law under which it is incorporated. Certainly it is better to prevent immorality and crime than it is to attempt to reform after the commission of the criminal or immoral act. But what tends to immorality we cannot always clearly determine. I do not know of a drama which teaches immorality. The drama is created from word and character pictures in real life, and, as a rule, irrespective of what may be the characters of the actors, the lessons of the drama are useful.

Not many years ago, notwithstanding what may now be said with reference to the usefulness of the drama, it was by a very large number of persons in most of our churches regarded as not a proper place to spend an evening at the theater, and at the present time some people believe it to be their religious duty to discountenance attending, or even playing a game of cards for amusement. Public opinion in this respect is very much changed within the last few years, and, inasmuch as theaters and places of amusement are growing in favor year by year, and afford humanity the means of much needed recreation and amusement, I beg to suggest that it would be wiser and better to seek to throw around those engaged in the dramatic profession, proper safeguards and protection from temptation, than by resorting to the methods indicated in some of the acts of the society to which I have more particularly referred. No amount of care, and no possible legislation, can wholly prevent vice, immorality, and crime. Much must necessarily be left to the free will and choice of individuals, and I would by no means discourage every lawful and proper effort to exalt the value of virtue in the eyes of all persons.

If theaters and places of amusement are so full of temptation, as has been implied in the remarks of the President of the New York Society, it certainly seems as if it might be possible, by proper legislation, to require suitable precautions to be taken whereby those dangers might be lessened.

In his address, he says, in these degenerate days there has been engrafted on it (meaning the drama) what is commonly known as "leg drama," which he characterizes as an indecent physical exhibition of the lowest grade. I am free to say for myself, and unquestionably for a large number of people, that many of those exhibitions are not pleasing; while to a large number of other people they are very acceptable. Many people have not the capacity to grasp and



appreciate the delineation of character in many of the best dramas; they find pleasure in amusements of another character, and is it my province, or the province of the President of the New York Society, to sit in judgment upon them, because they differ in views and tastes with either him or myself?

Some people have been educated to believe that it is profanity to take the name of his Satanic Majesty, the Devil, in vain, which view to many people is ridiculously absurd. It may not be in good taste, but as tastes differ, one person has no right to pass judgment upon the honest convictions of another in such matters. We may have our opinions, and express our views, and in most of these matters we had there best stop.

To many people the nude forms of the most beautiful statuary, and those represented in the most renowned paintings, are indecent exposures. They fail, for the want of culture and education, to rise to a proper comprehension of the ideal, and of the work of the artist; they, and others, may see in them nothing but vulgar pictures and obscene representations.

Would the President of the New York Society favor the exclusion of children and young people from galleries of art, because they contain such exhibitions as I have just referred to? If not, then where is the point at which he claims his right to interfere commences? Where is the danger line? If young people are to be fenced in in one respect, why may they not be in others? And when we have once commenced, it will be difficult to find a point at which to stop, and strong public opposition will certainly be engendered by any such movement.

These thoughts have come to me, and I give them to this Society for such criticism and consideration as they may be entitled to.

## PRIVILEGED COMMUNICATIONS.\*

BY CLARK BELL, ESQ.

This subject has recently excited public interest, and the state of the law of England being different from the existing law in many of the American States, I have thought that medical men and jurists on both sides the Atlantic would feel an interest in a statement of the law as it exists, with brief reference to the authorities, for use of both professions.

There is a wide divergence of opinion between the views of English common law jurists and the legal and medical profession in many States of the American Union upon this subject.

The statute of the State of New York provides as follows :

No person duly authorized to practice physic and surgery shall be allowed to disclose any information which he may have acquired in attending any patient in a professional character, and which information was necessary to enable him to prescribe for such patient as a physician or to do any act for him as a surgeon. (2 Rev. Statutes 406, part 3, chap. 7, title 3, sec. 73.)

By section 834 of the Code of Civil Procedure of the State of New York it is enacted as follows :

A person duly authorized to practice physic or surgery shall not be allowed to disclose any information which he acquired in attending a patient in a professional capacity, and which was necessary to enable him to act in that capacity.

The Code of Civil Procedure of New York provides as follows :

Section 833 : "A clergyman or other minister of any religion shall not be allowed to disclose a confession made to him in his professional character, in the course of discipline enjoined by the rules or practice of the religious body to which he belongs." This provision may be also found in the Revised Statutes of New York, at 2 R. S., 406, part 3, ch. 7, tit. 3, sec. 72.

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\*Read before the Medico-Legal Society, March 8, 1893.

Section 835 : "An attorney or counsellor-at-law shall not be allowed to disclose a communication made by his client to him, or his advice given thereon, in the course of his professional employment."

Section 836 : "The last three sections (833, 834, and 835) apply to every examination of a person as a witness, unless the provisions thereof are expressly waived by the person confessing, the patient, or the client."

Section 836 was amended by an enactment of the Legislature of the State of New York in 1891, chap. 381, by adding to it the following language :

But a physician or a surgeon may, upon a trial or examination, disclose any information as to the mental or physical condition of a patient who is deceased which he acquired in attending such patient professionally, except confidential communications and such facts as would tend to disgrace the memory of the patient, when the provisions of section 834 have been expressly waived on such a trial or examination by the personal representatives of the deceased patient, or if the validity of the last will and testament of such deceased patient is in question, by the executor or executors named in said will.

The following amendment was passed by the New York Legislature in 1892 :

Section 1. Section eight hundred and thirty-six of the Code of Civil Procedure is hereby amended so as to read as follows :

§ 836. The last three sections apply to any examination of a person as a witness unless the provisions thereof are expressly waived upon the trial or examination by the person confessing, the patient, or the client. But a physician or surgeon may, upon a trial or examination, disclose any information as to the mental or physical condition of a patient, who is deceased, which he acquired in attending such patient professionally, except confidential communications and such facts as would tend to disgrace the memory of the patient, when the provisions of section eight hundred and thirty-four have been expressly waived on such trial or examination by the personal representatives of the deceased patient, or if the validity of the last will and testament of such deceased is in question, by the executor or executors named in said will, or the surviving husband, widow, or any heir-at-law or any of the next of kin of such deceased, or any other party in interest. But nothing herein contained shall be construed to disqualify an attorney on the probate of a will heretofore executed or offered for probate or hereafter to be executed or offered for probate, from becoming a witness as to its preparation and execution in case such attorney is one of the subscribing witnesses thereto.

Session Laws, N. Y., 1892, chap. 514, p. 111.

The following American States and Territories have, by legislative enactment, adopted substantially the provisions contained in the Revised Statutes of New York : Arizona

Territory, Arkansas, California, Idaho, Indiana, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, New York, Ohio, Oregon, Utah Territory, Washington, Wisconsin, Wyoming.

The States and Territories which have not legislated upon the subject are: Alabama, Colorado, Connecticut, Delaware, Florida, Georgia, Maine, Massachusetts, Mississippi, Minnesota, North Carolina, New Hampshire, New Jersey, New Mexico Territory, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia.

The fundamental principle of law which should control the question may be stated, and should be considered, as follows:

Privileged communications may be defined to relate to that class of evidence which, on grounds of public policy, courts decline to receive for the reason that its admission would entail greater mischief than its rejection, because of some collateral evil to third persons or to society in general.

The following examples illustrate the reason of the rule; Secrets of State; communications between a government and its officials; the secrets of the jury-room; judicial consultations; sources of information on which criminal prosecutions are based; communications of client to counsel; patient to physician, penitent to priest, and between husband and wife.

The discrimination against physicians in respect to confidential disclosures under the common law rule seems to be contrary to the principle of law above stated, and the legislation in New York and other States extending the privilege to physicians and surgeons has been in response to a universal public sentiment that public policy and the best interests of society would be promoted and subserved by in-

terdicting disclosures by physicians, which, from the nature of their intimate relation to and knowledge of the family secrets of their patients, they must necessarily acquire as well from observation as from disclosure. The language of the statutes is more in the interest of the patient, of the family relation, and of society, than of the physician.

“He shall not be allowed to disclose,” is the language of the statutes.

The physician who has taken the usual oath of Hippocrates has sworn to keep such secrets inviolate, and that physician in an American State, where the privilege has not been extended by statute, who should disclose the secrets of his patient would encounter public odium and social ostracism, so universal is the public sentiment against any disclosures by a physician or surgeon of the professional secrets of his patients. By the common law of England the privilege which was extended to lawyers was not extended to physicians, and by no English statute has the privilege been extended to physicians.

Dutchess of Kingston Case, 20 How S. T. Pr., 613. Baker *vs.* R. R., 3 C. P., 91. Mahoney *vs.* Ins. Co. L. R., 6 C. P., 252. Wheeler *vs.* Le Marchant, 44 S. T. N. S., 631. 2 Starkie on Evidence, 228.

It will thus be seen that it was not a prohibition of the privilege to physicians, but the common law privilege had never been extended to them, nor to clergymen in England, by subsequent legislation.

The sentiment of English physicians, where the common law rule is enforced, is doubtless correctly stated by the eminent writer, Prof. C. Meymott Tidy, in his work on Legal Medicine :

The highest legal authorities in England have decided that medical men enjoy no special privilege with regard to secrets of a professional nature. In other words, no practitioner can claim exemption from answering a question because the answer may or would involve a violation of secrecy, or even implicate the character of his patient. This is the law, and however it may be defended upon legal grounds, we hope there are not a few

medical men who would prefer to sacrifice their personal liberty to their honor. It seems a monstrous thing to require that secrets affecting the honor of families, and, perhaps, confided to the medical adviser in a moment of weakness, should be dragged into the garish light of a law court, there to be discussed and made joke of by rude tongues and unsympathetic hearts. (1 Tidy's Legal Medicine, 20; Phila. ed.)

Prof. R. J. Kinkead, Lecturer on Medical Jurisprudence in Queen's College, Galway, speaks the sentiment of Irish medical men in saying :

In Great Britain and Ireland the medical practitioner is compelled to answer any question, although it may involve the violation of a solemn obligation to secrecy, and the betrayal of a trust confided to him in one of the most sacred relationships that can exist between men.

Many men, it is to be hoped, would prefer to sacrifice their liberty, rather than their honor and that of their profession. (Guide to Irish Medical Practitioner, by Prof. Kinkead, p. 426.)

By the Roman law, the privilege is extended to physicians. (Weiske, Rechts, Lexicon XV., 259, ff.)

By the Penal Code of France it is made a crime for a physician to disclose the secrets of his patient. (Bonière, Traité des Preuves, sec. 179.)

For an able exposition of the law upon the subject, see paper by Mr. Albert Bach, "*Medico-Legal Aspect of Privileged Communications.*" (Medico-Legal Journal, June, 1892, vol. X., p. 32.)

## EDITORIAL.

### INSANITY IN MURDER CASES.

The following bill has been introduced by Senator O'Connor in the New York Legislature :

#### AN ACT

To amend section three hundred and thirty-six of the code of criminal procedure, relating to the plea of insanity.

SECTION 1. Section three hundred and thirty-six of the code of criminal procedure is hereby amended so as to read as follows :

§ 336. Whenever a person under indictment for the crime of homicide desires to offer the plea of insanity at the time of committing the crime charged, he must interpose such plea prior to the trial of the indictment or be precluded from offering any evidence on the trial in support of such plea. Whenever the plea of insanity is so interposed, the sanity of such person at the time of committing the homicide so charged shall first be tried by a jury, and upon any such trial the defendant's sanity must be established beyond a reasonable doubt. Either the people or the defendant may appeal from the verdict of the jury in the same manner as now provided by law for appeals by the defendant from a judgment of conviction upon the trial of an indictment. If such plea be not finally sustained by the verdict of the jury, such person shall be tried for the said homicide by a different jury at a subsequent term of the court, and upon such trial no evidence shall be admissible in support of the plea of insanity.

§ 2. This act shall take effect immediately.

If passed it would revolutionize the criminal jurisprudence of that State, and would probably be followed by like changes elsewhere.

The public prejudice against the plea of insanity is intense, because it is sometimes used as a cover for crime in behalf of men who are not insane.

Legislatures should be careful in overturning the long-established criminal practice in this class of cases, which is based on human experience from earliest times, without great deliberation and thoughtful consideration.

The careful observer will discover that many more insane persons have been convicted and executed than guilty persons have escaped by the interposition of this plea when falsely and improperly made.

In legislating for the insane we should always remember that they are, as Lord Shaftesbury truthfully said, "that most unfortunate class, most entitled to our pity and protection because they cannot speak for themselves," and, as all must concede they are the wards of the State from necessity, and entitled to every safeguard and protection which the laws can give.

The old maxim of the law is "that it is better that ten guilty men escape than one innocent man suffer." No one questions its truth or its force.

May we not say that "it is better that five guilty men escape who improperly plead insanity than that one innocent and insane person be executed."

During the last decade, in both America and Great Britain, the roll-call of the unfortunate insane who have been convicted of homicide is larger by far than of those who, guilty, have escaped conviction by means of this plea.

We recognize the evil which causes the public distrust of the plea of insanity, but courts and juries are keen barriers to guard the popular rights. Do not let us, in our indignation at those who fraudulently use this plea of insanity, take away one safeguard of the innocent insane, who, under the benign spirit of our laws are innocent, because they are insane.

The present law of New York permits either the people or the accused to have the question of insanity tried before the main trial of the indictment.

While the people have rarely raised it except in the remarkable case of George Francis Train, where the District Attorney asserted the insanity of the accused and that claim



was resisted by the prisoner, the right to do so is clear, both by the State and the accused. The New York *Sun*, in an able leader, assails the proposed bill of Senator O'Connor, both as to the merits of the bill itself and the constitutionality of the provision which provides for an appeal by the people, in case the jury should sustain the prisoner's plea on the preliminary inquisition.

We shall watch with interest the action of the Legislature of New York upon the measure.

Senator Edmund O'Connor, the author of the bill, is a careful and able lawyer, who recognizes and laments the faults of the existing system, and his bill is intended to suggest his plan of a remedy.

At my suggestion, he sends his reasons for and views upon the subject, which are entitled to consideration. He writes as follows :

STATE OF NEW YORK, SENATE CHAMBER,  
ALBANY, March 2, 1893.

CLARK BELL, ESQ., 57 Broadway, New York, N. Y.

*Dear Sir* :—Yesterday I sent you printed copy of Senate Bill No. 215, which proposes to amend Section 336 of the Code of Criminal Procedure. The necessity for some remedy for the present misuse of the plea of insanity in a certain class of homicide cases I assume is too apparent to need discussion, but as to what that remedy should be is not so clear. It is of primary importance that the laws of our State for the punishment of crime should be administered in such an effective manner as to command the confidence and respect of the people and to impress upon those disposed to violate the laws that punishment will be speedy and certain in all cases where crime has been committed. Beginning with the "Sickles Case," and the numerous similar ones that have since been tried, in which the defendants have been uniformly acquitted under the plea of insanity, the administration of criminal justice is rapidly being brought into contempt, and the Courts are powerless to check the increasing evil. It is fair to assume that the verdicts of juries in such cases to a large extent reflect the sentiment of the community in which they have been tried; nevertheless the effects of such verdicts are vicious and encourage rather than prevent the commission of similar crimes. In my opinion, it would be far better in such cases to leave to the jury the question whether the killing was justifiable than to secure an acquittal by a plea of insanity in which neither the jury nor the people believes. So long, however, as it continues to be the policy of the State to maintain its present laws for the trial and punishment of persons charged with homicide, I believe that means should be

adopted adequate to secure just results. I believe that the remedy proposed by the bill would secure more effectual administration of justice in such cases. I am satisfied that the proposed amendment does not violate Section 6 of Article 1 of the Constitution of the State, which provides that "No person shall be subject to be twice put in jeopardy for the same offense," because the defendant is not on trial for "the offense" when the question of his sanity at the time of the commission of the alleged crime is being tried. The presumption of sanity in all cases obtains, but when the contrary is alleged by the defendant, then this bill requires the People to establish beyond a reasonable doubt that the party accused was a person who *could commit a crime*, before he can be placed on trial for it. It might be urged that this would be largely in the interest of the defendant. Granted. On the other hand the jury would render a verdict on the merits on the question of insanity, uninfluenced by considerations of sympathy, or the consequence of the verdict, because in case the defendant was found to be sane, another and different jury would have to decide the question of his guilt. Neither do I think it violates Section 2 of the same Article, which provides that "The trial by a jury in all cases in which it has been heretofore used shall remain inviolate forever; \* \* \*" for the reasons before stated and for additional reason, that it in no respect changes the essential features of a trial by jury, but simply regulates the procedure of such trial. The two serious objections are, the expense of a double trial, and that the change might produce more serious evils than the ones we now suffer from. I do not think there is any force in the first objection, because the question of expense should be subordinated to the question of a clean and effective enforcement of the criminal laws. The second objection is one upon which the people may widely differ. In my judgment the plea of insanity would rarely be interposed except in meritorious cases, for the reason that the sane defendant would be very chary about disclosing his hand until on trial for the crime. The foregoing briefly explains my reasons for introducing the bill. I am free to say that I am willing to abandon it and adopt any other better remedy that may be suggested.

Very truly yours,

EDMUND O'CONNOR.

## THE AMERICAN INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1893.

The following papers are announced to be read at this Congress, in addition to those previously announced, to be held the week commencing August 14, 1893, in Chicago, Ill.:

JUDGE H. M. SOMERVILLE'S paper will be "The Improved Condition of the Criminal Insane in their Relation to the Law."

A. H. SIMONTON, M. D., Cincinnati, Ohio, "The Medico-Legal Importance of Omental and Plastic Adhesions in Abdominal Surgery."

C. H. BLACKBURN, ESQ., late of Cincinnati, but now of the Chicago Bar, "Insanity and Criminal Responsibility."

FRANK C. HOYT, M. D., Superintendent of State Hospital for Insane, Clarinda, Iowa, "Medico-Legal Consideration of Sexual Perversion."

PROF. CHARLES K. MILLS, M. D., of Philadelphia, Pa., "Aphasia in Some of its Medico-Legal Relations."

G. E. POTTER, M. D., Newark, N. J., "Maternal Impressions and their Relation to Crime."

A. WILBUR JACKSON, M. D., F. S. Sc., London, "The So-called 'Keeley Gold Cure for Inebriety' in its Medico-Legal Relations."

Prof. R. HARVEY REED, Mansfield, Ohio, "Medical and Surgical Expert Testimony: (1). Its par value. (2). Its present value. (3). How to place it at par."

S. GROVER BURNETT, M. D., "The Prosecution of Real and Feigned Insane Criminals."

CLARK BELL, ESQ., "Expert and Opinion Evidence."

The following names have enrolled in the Congress since last announcement:

HAROLD BROWETT, ESQ., Shanghai, China.

S. GROVER BURNETT, M. D., Kansas City, Mo.

J. ADELPHI GOTTLIEB, M. D., New York City.

FRANK C. HOYT, M. D., Superintendent State Hospital for Insane, Iowa.

Hon. WILLIAM P. LETCHWORTH, LL. D., Portageville, N. Y.

Prof. CHARLES K. MILLS, Philadelphia, Pa.

A. E. OSBORNE, M. D., Superintendent Home for Deficient Children, Glen Ellen, Cal.

ALFRED E. REGENSBERGER, M. D., San Francisco, Cal.

IRA O. TRACY, M. D., Assistant Physician Kings County Asylum, Flatbush, N. Y.

M. NELSON VOLDENG, M. D., Assistant Superintendent Iowa State Hospital, Independence.

U. O. B. WINGATE, Health Commissioner, Milwaukee, Wis.

The classification of papers and subjects and the personnel of sub-committees will be announced later by circulars, as soon as same are settled by the committees.

Members of the Medico-Legal Society, whether active, corresponding, or honorary, who have not enrolled in this Congress, are invited to do so. The enrolling fee is \$3, entitling the member to all publications made by the Congress.

Members who have not remitted their enrolling fee will

please do so without further notice, to aid in defraying the preliminary and incidental expenses of the meeting.

The following correspondence has passed between the American Secretary of State and the President of the American International Medico-Legal Congress:

AMERICAN INTERNATIONAL MEDICO-LEGAL CONGRESS  
OF 1893.

OFFICE OF THE PRESIDENT OF THE AMERICAN  
INTERNATIONAL MEDICO-LEGAL CONGRESS  
OF 1893, 57 BROADWAY, NEW YORK CITY,

December 20, 1892.

To the HON. JOHN W. FOSTER, Secretary of State, Washington, D. C.

*Dear Sir:*—I have the honor to inclose a copy of a letter from myself, of March 31, 1890, to the Hon. James G. Blaine, then the Secretary of State, regarding the proposed International Medico-Legal Congress, then expected to be held in 1892, on the occasion of the Columbian Exposition, and the circulars to which it then related, and a copy of Mr. Blaine's reply of April 17, 1890.

The postponement of that exposition has determined the like postponement of this Congress to the week commencing August 14, 1893, at the city of Chicago. I have the honor also to enclose the last circular letter, which embraces a list of the officers and members at the present moment.

I should esteem it a like honor if you would lend the great weight of your name and office to this movement in aid of the science which is here represented.

I have, sir, the honor to remain with high regard—

Very faithfully yours,

CLARK BELL.

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DEPARTMENT OF STATE,  
WASHINGTON, January 5, 1893.

CLARK BELL, ESQ., President of the American International Medico-Legal Congress of 1893, No. 57 Broadway, New York City.

*Sir:*—I have to acknowledge the receipt of your letter of the 20th ultimo in relation to the International Medico-Legal Congress, whose sessions are to commence August 14, 1893, at the city of Chicago.

I shall be very glad of any opportunity to show my interest and sympathy in the important work for the furtherance of which the conference is to be convened.

I am, sir, your obedient servant,

JOHN W. FOSTER.

Authors of papers are requested to send copies of the same at once to the President of the Congress, so that intelligent classification can be made, and that selections may be arranged for preliminary publication of some, to arouse discussion. Those who have not furnished titles of papers are requested to do so as early as possible.

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### WORLD'S CONGRESS AUXILIARY.

We have not heard what action has been taken by this organization in the domain of Medical Jurisprudence, but hope to announce full information in our next issue.

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### HIGH JOURNALISM.

The New York *Sun* is a great Journal. It gives hard blows, but it has the courage to do right when convinced that it has done wrong.

In its issue of February 19, 1893, it prints in a most conspicuous place, of its own volition, a complete retraction of charges it had previously made against Mr. Henry B. McDowell, a son of the late General McDowell, and it not only does this, but wholly vindicates him as to the charges it had previously made against him. This deserves high praise. It places the *Sun* in a high and a proud position. It makes a luminous precedent for justice in journalism worthy of emulation. It has been understood to be the unwritten law of some journals never to retract an error, so that few men assailed by the press make any reply.

The light of this act of a great journal is resplendent. It illumines and glorifies. It is courageous. It is just.

Goethe says: "On every height there lies repose." The *Sun* rises to the exalted heights by such courageous and conspicuous acts of justice. It stands on the Alps in the realm of Journalism.

## THE SUPREME COURT OF THE STATES AND PROVINCES OF NORTH AMERICA.

This work is intended to embrace each State and Territory of the American Union and Province of the Dominion of Canada, and to contain a historical sketch of the Supreme Court, prepared either by the Chief Justice or some member of that bench, or of the bar, under his supervision and direction, with sketches and portraits of the Chief and Associate Judges, and sketches and portraits of former judges of that Court.

It will be published in separate series, embracing two or more States in each, and when enough are thus completed the first volume will be issued.

Series No. One, embracing the States of Texas and Kansas, and Series No. Two, embracing New Jersey and Oregon, have been issued, as an appendix or supplement to the MEDICO-LEGAL JOURNAL.

The historical sketch of Texas is from the pen of ex-Judge A. S. Walker of that bench. That of Kansas is by the Chief Justice, Hon. Albert H. Horton. That of New Jersey is by Francis B. Lee, Esq., of the Trenton bar, and the historical sketch of the Court of Chancery of that State, by S. Meredith Dickinson, Esq., of Trenton. Judge C. H. Carey, of Portland, was designated by the then Chief Justice, Hon. R. S. Strahan, to prepare the sketch for Oregon. The illustrations embrace portraits of the present and ex-Judges, the Chancellor and Vice-Chancellors, also of the Court of Chancery in New Jersey, and Justices and ex-Justices of the Court of Appeals in Texas. The sketch of Alabama is from the pen of ex-Judge H. M. Somerville, of that bench. Chief Justice Bleekley, of Georgia, designated Charles Edgeworth Jones, Esq., to prepare the historical sketch of that State, and Mr. Russel Gray, of the Boston bar, has been designated to prepare the sketch of Massachusetts. Judge A. L. Palmer, of the bench of New Brunswick, is the author of the historical sketch of that Province, and able writers of the bench and bar are preparing sketches of the court and judges for future publication.

The price of each volume is \$5, payable in advance, and it will be sent in the serial numbers, as issued, if desired by subscribers. The work is edited by Clark Bell, Esq., of the New York City bar, and published at No. 57 Broadway, New York City. Many of the law libraries are subscribers, and members of the bench or bar desiring to subscribe will please address—

MEDICO-LEGAL JOURNAL,  
57 Broadway, New York.

## PERSONAL.

Professor Brouardel, Dean of the Faculty of Medicine of Paris, has been elected a member of the French Institute, and a banquet was tendered him December 27, 1892.

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Dr. Norman Kerr, of London, delivered four lectures in London in January and February last on Inebriety and Jurisprudence.

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Hon. Richard B. Kimball, L. L. D.—The death of this gifted member, our associate on the editorial staff of this journal, removes the last of that coterie of writers known as the Knickerbocker galaxy. A graduate of Harvard, an author whose works of fiction are read in many languages, a courteous gentleman, a warm friend, and for many years an officer of the Medico-Legal Society, has passed into the eternal rest. We place this tribute upon the bier of our friend of more than a quarter of a century, whose loss falls upon the editor of this journal like an unexpected blow.

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Hon. C. H. Blackburn.—We are glad to notice that Mr. Blackburn has been called to Chicago to take charge of the interests of a great corporation. He is at the head of the firm of "Blackburn, Bailey & Foster," with offices in the Chamber of Commerce. Mr. Blackburn held an enviable position at the bar of Cincinnati, which he has to relinquish to assume his new position.

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Dr. R. Harvey Reed, of Mansfield, Ohio, editor of the Surgical Department of the *Railway Age*, will read a paper before the New York Medico-Legal Society shortly, entitled, "The Present Status and Importance of Railway Surgery."

## RAILWAY SURGERY.

The *Railway Age* has a surgical department, edited and conducted by R. Harvey Reed, M. D., of the faculty of the Ohio Medical College, and devoted to the interest of the National Association of Railway Surgeons. It prints editorially our article on Railway Surgery from December number and says:

This editorial is sufficient evidence of the important position railway surgeons hold, or, at least, must play in the future, in relation to medico-legal questions. Those who think that railway surgery has no special place in the chirurgical art are advised to read and reflect on this significant announcement.

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### THE SOUTHERN CENTRAL RAILWAY ASSOCIATION.

This association announced a meeting to be held at Savannah, Ga., on March, 7, 1893, with the following—

#### PROGRAMME.

1. A. C. North, M. D., Nennan, Ga., "History of Railroads."
  2. S. N. Jordan, M. D., Columbus, Ga., "Compound Fractures."
  3. W. B. Prather, M. D., Seale, Ala., "Anæsthetics."
  4. J. I. Darby, M. D., Americus, Ga., "Shock and Treatment."
  5. W. H. Elliot, M. D., Savannah, Ga., "Elastic Constrictions."
  6. W. S. Cannon, M. D., Ellenton, S. C., "Spinal Concussions."
  7. S. C. Benedict, M. D., Athens, Ga., "Diagnosis of Spinal Chord Injuries by Exclusion."
  8. J. C. Maxwell, M. D., Greenwood, S. C., "Comparative Prognosis in Railway, Civil, and Military Surgery."
  9. H. A. Brown, M. D., Fort Valley, Ga., "Minor Surgery in Railway Practice."
  10. W. H. Philpot, M. D., Geneva, Ga., "Railway Accidents."
- H. L. Battle, M. D., Wadley, Ga., "Removal of Cedar Pencil from Bladder of Railway Engineer."



The Ohio Association of Railway Surgeons announce a meeting at Columbus, Ohio, for March 17, 1893, on a call signed by Samuel T. Thorne, M. D., of Toledo, as Chairman of Preliminary Committee, and Charles H. Mentz, M. D., of Sandusky, as Secretary.

Among those announced to take part are Surgeons C. W. P. Brock, M. D., President of the National Association of Railway Surgeons; Charles B. Parker, M. D., of Cleveland, Ohio; B. M. Ricketts, M. D., of Cincinnati; R. Harvey Reed, M. D., of Mansfield; W. B. Outten, M. D., of St. Louis; C. M. Woodward, M. D., of Tecumseh, Mich.; Charles Hiller, M. D., of Sandusky; Webb J. Kelley, M. D., of Galion, O.; S. L. M. Curdy, M. D., of Denniston, O.; Lester Keller, M. D., Ironton, O.; Samuel S. Thorne, M. D., of Toledo, and Thomas Hoover, M. D., of Columbus. A permanent State organization will be affected.

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## MANAGEMENT OF RAILWAY INJURIES AND MODERN ANTISEPTIC TREATMENT.

R. S. Harnden, M. D., Surgeon of N. Y., L. E. & W. R. R., of Waverly, N. Y., contributes an able article upon this subject to the March 3, 1893, number *Railway Age*, which which was read before the Association of Erie Railway Surgeons at Buffalo, N. Y. We regret our want of space limits us to a single quotation from an able paper:

Railroad surgery has now become as distinctive as military surgery, and it is attended with many of its horrors. Many times the mangled employe must lie for hours beside the track, or in the ditch, waiting patiently, often hopelessly, for assistance. Added to the shock and dread of impending death there is often this species of mental excitement or traumatic psychosis, or that more formidable condition termed "the delirium of shock," from which we must not expect recovery; at least I have never heard of a case which recovered. These cases or conditions are peculiarly characteristic of railroad injuries.

## DEATHS UNDER ANÆSTHETICS.

Gurlt reported to the last surgical congress at Berlin the following statistics of deaths under anæsthetics. They are made up from the observation of 62 operators, who anæsthetized 109,196 persons, with 39 fatal results, showing 1 death to 2,800 narcoses. The following were the anæsthetics used:

	Narcoses.	Deaths.
Chloroform, - - - - -	94,123	36
Ether, - - - - -	9,431	None.
Ether and chloroform, - - - - -	2,891	1
Ether and alcohol, - - - - -	1,381	None.
Bromoform with ethyl bromide, - - - - -	2,151	1
Penthal, - - - - -	201	1

In 2,913 cases the narcosis lasted over an hour; in an operation for utero-vaginal fistula,  $4\frac{1}{2}$  hours; in a case of tetanus, 9 hours. In 25 cases of which post-mortem examinations were made cardiac diseases were found. The author urges careful examination of the heart before administering chloroform.—*Cond. Extracts.*

## SUGGESTIONS AS TO STRETCHERS FOR USE ON RAILWAYS.

It would be feasible to place in cabooses or baggage cars an emergency box, and also stretchers, such chest to contain articles and materials to be used by the surgeon or by the men. And if directions were printed upon the lid of the box, which would be studied by the employes and with which they would become familiar, it would result in much good in many ways.—*Surgeon R. S. Harndon.*

The stiff stretcher cannot be used on a Pullman and is troublesome on a coach. A soft stretcher is far more convenient. Take a piece of canvas 6 feet 6 inches long, 26 inches wide, bind the edges strongly, attach four leather handles to each side, and it is ready for use. With this you can carry a person through almost any ordinary passage way and can place him on a stiff stretcher when he is to be carried a long distance. When rolled up it can be placed in a surgical grip and is always on hand when needed.—*Surgeon C. F. Smolt, of Nickerson, Kan., in Railway Age.*

## BLOODLESS AMPUTATION OF THE HIP-JOINT BY A NEW METHOD.

While a finger or a toe, or even a hand or foot, may be amputated without the use of a tourniquet or elastic constrictor without incurring any immediate risk to life from the loss of blood, such a procedure in amputation at the shoulder or hip-joint would jeopardize life on the operating-table. In all amputations below the shoulder and hip-joints we have now in Esmarch's elastic constrictor a reliable measure with which we can absolutely control hemorrhage during the operation and thus minimize the loss of blood. Elastic constriction is the simplest and safest method of preventing hemorrhage wherever it can be applied.—*Surgeon N. Senn, M. D., in Railway Age, February.*

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## COLOR-BLINDNESS.

The commission appointed by the council of the English Royal Society made recently a report upon this subject of importance to railway surgeons, which has been also made the subject of criticism in *The Edinburgh Review* for January, from which we quote:

There are some few people who fail to distinguish blue from green, and others, equally few, who see only in monochrome, but the color-blindness most common, and therefore most dangerous, is the so-called "red-green blindness," in which there is a total failure to distinguish between red and green—that is to say, a red-green blind man will regard a certain hue of green as identical with some hue of red, another of green as identical with white, while a third class of sufferers will also fail to see red at all of another particular hue. As long as this failure is confined to the one individual sufferer, the matter is of no great import but to himself. But when it is remembered that these very three colors—white, red, and green—are used on our railways as safety and danger signals, to say nothing of the ten thousand ships of all nations that plow the broad sea, where the same colors are in use for a similar purpose, the subject suddenly expands into one of national importance.

It is difficult to arrive at anything like exactness of the proportion of those color-blind in our population. There is

no means of ascertaining except by careful tests, and this only done in the army and the navy. The opinion of the commissioner as to its prevalence in England is as follows:

Out of 50,000 men examined by three authorities of the highest eminence, the average number affected was nearly four per cent. Of 1,056 youths, aboard five training ships, thirty-four were found to be color-blind, and numerous other evidences point to the conclusion that four per cent. is the general proportion of color-blindness among the male population of England.

The report of the commissioner concludes with a recommendation that certain defined tests be used for the satisfactory determination of color-vision, and the rigid exclusion of people of defective vision from all posts in which such defects may endanger human life.

On railways this test should be exacted in the employment of engineers, firemen, brakemen, and switchmen, and the railway is not only responsible, but reprehensible, for not making the tests, because men are not aware of their defect of vision in this respect until it is pointed out to them.

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### MR. JUSTICE BREWER AND RAILWAYS.

In the address made by this distinguished jurist before the New York State Bar Association, touching the importance of fixity of tenure of office in the judiciary, he touched upon railways and the organized "movement of coercion," as it is sometimes called, as follows:

There are to-day \$11,000,000,000 invested in railroad property, whose owners in this country number less than 2,000,000 persons. Can it be that whether that immense sum shall earn a dollar or bring the slightest recompense to those who have invested perhaps their all in that business, and are thus aiding in the development of the country, depends wholly upon the whim and greed of that great majority of 60,000,000 who do not own a dollar? It may be said that that majority will not be so foolish, selfish, and cruel as to strip that property of its earning capacity. I say that so long as constitutional guarantees lift on American soil their buttresses and bulwarks against wrong, and so long as the American judiciary breathes the free air of courage, it cannot.

## DUTY OF RAILWAY SURGEONS IN SETTLEMENT OF DAMAGES WITH PERSONS INJURED.

In the case of *Smith v. South Eastern R. W. Co.*, tried in Queen's Bench Division, February, 1893, before the Lord Chief Justice and a special jury, the jury awarded a verdict of £850 to plaintiff for damages to spine in a collision.

Defendant's counsel asked for a stay, to appeal for a new trial on the ground that the damages were excessive.

Lord Coleridge said on the application:

I can give you no assistance. I myself suggested, you know, a sum little short of what the jury gave; and though possibly I might have given a little less than they did, yet as they—a special jury—were extremely careful, and gave the case most careful consideration, I could not say but that the amount of their verdict was perfectly reasonable. The amount was entirely for them, and I cannot interfere. There is no ground for interference whatever. If the Court of Appeal apply to me, I shall say to them what I have said to you, and I may add that, as I said at the trial, anything more improper than what was done by the company's medical officer—I mean in making offers of various sums to the plaintiff—I never heard. I thought all the great railway companies had given up the practice—medical men huckstering with the parties injured as to the amount of damages.

The *British Medical Journal*, in commenting on this case and the dicta of the Chief Justice in a leading editorial article in its issue of March 4, 1893, says:

If the medical evidence met in the main with commendation, it is all the more a subject for regret that the attitude assumed by the ordinary medical officer of the company towards the case should have called for the condemnation of the Court. It has long been the accepted custom and rule that the medical officer of a railway company shall keep himself entirely aloof from all matters having to do with the settlement of claims, and shall confine himself entirely to the medical examination of injuries sustained, so as to present a trustworthy and unbiassed report thereon to the directors or their agents. Fifty years ago, when experience of such matters had no existence (for railway companies and accidents had then only come into being), and no one knew what was to be the outcome of the law entitling injured persons to compensation, there was some excuse for the practice which then prevailed of employing the medical adviser to negotiate, and even settle, a claim at the same time as he made his examination. But when these matters came before the Courts, the judges were not slow to point out that the impartiality of a medical adviser who had been so engaged was done away, and that his evidence was,

in consequence, of greatly lessened value as the testimony of impartiality and truth. The practice did not die all at once, however, but companies who availed themselves of it were no longer able to put into the witness-box in cases of trial the medical officer who had in any way been concerned in the negotiations about a claim.

Now all that is changed, or we thought it had been changed, until this action of *Smith v. the South Eastern Railway Company* came to show that the medical officer of that company had taken part, or was, at any rate, unable to convince the Court that he had not taken part, in the endeavor to settle the claim by making offers to the injured man of various sums in compensation. No wonder that the case took the course that it did; and the South Eastern Railway Company has to thank itself and its medical officer alone that they have been mulcted in such heavy damages. A singular lack of judgment seems to have been shown in the management of the case, and we can hardly doubt that this trial will be a lasting lesson to them. Railway companies, we thought, had learned that the best safeguard of their interests in such matters is to pursue methods by which they can with impartiality and knowledge best arrive at the data requisite for assessing the amount of compensation due for injuries, for suffering and pain, and loss in business. The days are over when the medical officer of a railway company is suspected of being a sort of a medical spy, and the great fall in recent years in the number of actions brought against railway companies by injured passengers is very largely due to the conduct of their medical advisers, who have sought to raise the tone and character of their peculiar work, and by friendly professional consultations with their brethren and by careful and unfailing impartiality to be of real help to both sides in solving the difficult questions which come before them. As the Lord Chief Justice remarked in his summing up: "The company must have a medical officer to go into the circumstances of each case and report to the directors, and within the proper limits he would be entitled to respect." The words he added were none too strong: "But when he turned himself into a sort of accident broker, and tried to see how cheaply he could get his company off, then he went entirely out of the line of his duty, and turned himself from the duties of a noble profession into a chafferer in damages, huckstering with patients about the damages to be given to them."

The *London Lancet*, in commenting upon the case in its issue of March 4th, says:

In our opinion the offer (of settlement) should be made by the financial or legal representative of the company and not by their medical adviser, as appears to have happened in the case under consideration. There would then be no occasion for such animadversions as fell from the lips of the Lord Chief Justice last week. We see no serious objection to the medical men on both sides being asked to assess the compensation for the injuries alone, but the reference should be mutually agreed upon and explicitly stated, both for their own honor and that of the profession to which they belong. They should zealously guard their actions so as to

give no cause of a charge of "huckstering," such as was recently made by the head of the common law of England.

The subject is one worthy the thoughtful consideration of all railway officials as well as railway surgeons.

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### THE RAILWAY SURGEON.

Surgeon C. M. Daniels, President of the Association of Erie Railway Surgeons, made his inaugural address before the Association at Cleveland, Ohio, on January 5, 1893, from which we take some pertinent extracts regarding the responsibility and affiliations of the railway surgeon, as published in *The Railway Age* :

The position of the railway surgeon is more frequently misunderstood than otherwise. He is looked upon as a paid employe, and in medico-legal cases his testimony is often considered as biased in favor of the company on that account, when, on the contrary, his position is such that justice can only be administered upon his testimony alone. The surgeon, in his high calling and with his standing in a community, together with his knowledge of matters in question, can often be a friendly arbitrator in the interest of all concerned and maintain good will where the opposite would, in all probability, result. Railway corporations have no desire to do an injustice, but to exist must necessarily protect their interests, and only ask us to, in the language of our next chief magistrate, "tell the truth."

In the settlement of medico-legal cases, without doubt, the surgeon is often of great value, both to the railway company and the injured person. It is he, and he alone, that can best judge the extent of an injury, and estimate the prospects of a future disability, and in a candid statement will many times increase the liberality of the railway company or reduce the extravagant amounts often demanded.

While railway companies are largely dependent upon our profession in determining amounts to pay in settlements of cases of injury, I do not believe they desire us to trespass upon the domain of the legal department, or use our knowledge for any ulterior purpose as against the fair and just interests of an injured person. On the contrary, I believe that the sympathy of juries has unjustly taken more money from railway companies than was ever paid for contesting deserving cases.

With the legal profession there is no reason why our affiliations should not be of the most friendly character. To be sure, at times, an attorney may be a little over-zealous to win his case, and endeavor to place the surgeon in some embarrassing situation when giving testimony, but we must not take offense, as it possibly may be bread and butter to him. But with that self-command that should at all times characterize the sur-

geon, together with a better knowledge of the subject, we can invite the most searching examination, always being careful not to assume knowledge and never be afraid of saying, "I do not know."

We cannot be the judge, nor can we sit upon juries; but through our opportunities for observation may indirectly, by truthful testimony, adjudicate cases and see justice administered to all. Our credentials before the public, in addition to a diploma, are our affiliations with city, county, state, and national medical associations and retaining honorable membership therein.

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## THE NATIONAL ASSOCIATION OF RAILWAY SURGEONS.

This organization is in a flourishing state, as appears from the published statement of its officers. Its membership in good standing is reported to be 1,421, and from each State and Territory of the American Union, the Dominion of Canada, the Mexican Republic and British Columbia.

This is a large body of men, deeply interested in medico-legal questions, especially in all that class of cases occurring in, or incident to, railway surgery, accident, and damage cases, and such combined action tends to add to the knowledge of this science in this domain of forensic medicine.

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Railway surgeons or railway lawyers are invited to contribute to this department of this journal. We hope to make it of interest and value to both lawyers and physicians interested in trials in which railway injuries or surgery will bear a part.

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R. Harvey Reed, M. D., editor of the Surgical Department of the *Railway Age*, will contribute a paper shortly upon "The Present Status and Importance of Railway Surgery."



## PSYCHOLOGICAL.

### THE PSYCHOLOGICAL SECTION OF THE MEDICO-LEGAL SOCIETY.

The Psychological Section of the Medico-Legal Society was formed December 6, 1892, by a resolution adopted by the Executive Committee of the Society, on motion of Mr. Clark Bell, viz.:

*Resolved*, That a section on Psychology be, and the same is hereby, created, as a standing committee of the Medico-Legal Society, to be known as the Psychological Section, which shall have in charge the investigation of all matters germane to the subject.

That C. Van D. Chenoweth be named as Chairman, and Clark Bell, Esq., as Secretary.

That said committee may name a Treasurer and enroll members of the Section at such enrolling fee as it shall fix, and have charge as a section of the collection of dues and the disbursements of its funds, provided only that it shall not have the power to incur any liability in the name of the Medico-Legal Society.

That the Section shall submit annually a report of its labors and work to the Society on the 1st day of December in each year, and oftener, if it deems proper or necessary.

That all its affairs shall be conducted by an executive committee of the Section, composed of the Chairman, Secretary, and Treasurer of the same.

At a meeting of the Medico-Legal Society held December 14, 1892, the following action was taken:

Mr. Clark Bell, Secretary, reported that the Executive Committee had authorized the appointment of a Psychological Section, to be under the management of a Chairman, Secretary, and Treasurer, to which all persons are eligible, whether members of the Society or not, if approved by the said Chairman, Secretary, and Treasurer of the Section or a quorum thereof, at annual dues of \$1.50 to members, and \$5.00 to non-members of the Medico-Legal Society, and that the Section should defray its own expenses out of said dues without charge to the Society.

That C. Van D. Chenoweth had been selected as Chairman, and Clark Bell as Secretary of that Section.

On motion the Society approved of the action of the Executive Committee.

Under this authorization, Dr. Robert H. M. Dawbarn was elected Treasurer, and meetings of the Section authorized on the call of the Secretary.

The first meeting of the Section was held at the residence of George W. Kidd, Esq., No. 853 Fifth Avenue, on the 13th of January, 1893, which was well attended, and the preliminary circular issued and approved.

The next open meeting was held February, 2, 1893, at the residence of Dr. Hubbard W. Mitchell, where the Chairman made an address and the members already elected were announced.

The appointment of sub-committees for experiment and investigation were authorized.

ROLL OF MEMBERS OF THE PSYCHOLOGICAL SECTION, MEDICO LEGAL SOCIETY.

MR. WALLACE C. ANDREWS, 2 East 67th St., New York City.

DR. RAPHAEL ASSELT, 25 Prince St., New York City.

CLARK BELL, Esq., Secretary, 57 Broadway, New York City.

MRS. C. VAN D. CHENOWETH, Chairman of the Section, 64 East 86th St., New York City.

EDWARD W. CHAMBERLAIN, Esq., Counsellor-at-law, 111 W. 42d Street.

D. M. CURRIER, M. D., Newport, N. H.

Judge ABRAM H. DAILEY, President Medico-Legal Society, 16 Court St., Brooklyn, N. Y.

MRS. Judge DAILEY, 451 Washington Av., Brooklyn, N. Y.

DR. ROBERT H. M. DAWBARN, Treasurer of the Section, 105 W. 74th St., N. Y., Prof. Surgery N. Y. Polyclinic.

DR. BETTINI DI MOISE, 20 W. 10th St., New York City.

F. B. CLATWORTHY, Esq., 640 W. 55th St., New York City.

DR. CHARLES S. COLLINS, Kenmore, 57th St. and 9th Av., New York City.

MR. EDWIN CHECKLEY, Teacher and Author on Physical Culture, 92 Penn St., Brooklyn.

THOMAS CLELAND, M. D., 252 West 52d St., New York City.

MR. RICHARD C. GARHART, 117 W. 81st St., New York City.

DR. W. T. GIBB, 365 Lexington Av., New York City.

MR. EDWARD B. HILL, Counsellor-at-law, 45 Wall St., New York City.

MR. SHELDON HOPKINS, The Alpine, Broadway and 33d St., New York City.

DR. OWEN E. HOUGHTON, 126 South Oxford St., Brooklyn.

MRS. DR. O. E. HOUGHTON, 126 South Oxford Street, Brooklyn.

DR. A. WILBUR JACKSON, 827 Park Av., New York City.

MR. GEORGE W. KIDD, 35 Water Street, New York City.

MR. J. LOUIS KELLOGG, 333 W. 23d Street, New York City.

HUBBARD W. MITCHELL, M. D., 747 Madison Avenue, New York City.

WILSON MACDONALD, Esq., Sculptor, Broadway and 40th St., New York.

ROBERT J. NUNN, M. D., Savannah, Ga.

MRS. EMMA E. POUCHER, 250 West 85th St., New York City.

FREDERICK PRENTICE, Esq., 44 Broadway, New York City.

HON. HENRY ROBINSON, Concord, N. H.

BAINBRIDGE SMITH, Esq., Counsellor at Law, 94 Liberty St., New York City.

MRS. BAINBRIDGE SMITH, 437 5th Avenue, New York City.

DR. BRANDRETH SYMONDS, Mutual Life Insurance Company, 59 Cedar St., New York City.

MRS. M. LOUISE THOMAS, Webster Avenue, Fordham, N. Y.

The following is the Preliminary Circular :

PSYCHOLOGICAL SECTION  
OF THE  
MEDICO-LEGAL SOCIETY.

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C. VAN D. CHENOWETH, *Chairman*,  
Park Avenue Hotel, N. Y. City.

ROBERT H. M. DAWBARN, *Treasurer*,  
105 West 74th Street, N. Y. City.

CLARK BELL, *Secretary*,  
57 Broadway, N. Y. City.

OFFICE OF THE SECRETARY,  
No. 57 BROADWAY,  
NEW YORK CITY.

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This Section has been formed under the auspices of the *Medico-Legal Society*, for the investigation of all branches of Psychological Science.

Its affairs will be managed by a Committee composed of its executive officers, who also act upon the election of members of the Section. These, if members of the *Medico-Legal Society*, pay as annual dues \$1.50 each, and all others \$5.00 each, in advance.

The Section is interested in all which pertains to the wide domain of Psychology; in the rapidly growing facilities which the Colleges and Universities are offering to students in Experimental work; as well as in that vast region of Psychological phenomena, which, with its perplexing and increasing complications, demands the strictest and most scientific investigation.

Committees will be appointed from the members of the Section for especial study in the departments of Animal Magnetism, Hypnotism, Telepathy and Clairvoyance, and also of the so-called Apparitions, and other claims of respectable Modern Spiritualism.

It is proposed to conduct these inquiries and investigations with candor and fairness, upon strictly scientific lines, and to reach, in so far as possible, a valuable and enlightening collection of facts incident to these phenomena, from which important deductions may be made.

Applications for Membership must be endorsed by some one known to, or properly vouched for by some member of the Committee or Section.

Every Student of Psychology is invited to unite and co-operate in the labors of this section.

CLARK BELL,  
*Secretary.*

## THE BULLETIN OF THE PSYCHOLOGICAL SECTION.

The Psychological Section of the Medico-Legal Society will publish its transactions and additional psychological matter in a Bulletin, which will be issued in serial numbers, at the price of \$1.50 per annum to subscribers, and free to members of the section. The first number has appeared, as of January 1, 1893. Subscriptions may be made to the Chairman, C. VAN D. CHENOWETH, 64 East 86th Street, New York City; the Treasurer, DR. R. H. M. DAWBARN, 105 W. 74th Street, New York City; or the Secretary, CLARK BELL, 57 Broadway, New York City.

The address of Mrs. C. Van D. Chenoweth before the Psychological Section will be found in the current number, and is the leader in the first serial number of the Bulletin of the transactions of the Psychological Section.

## SECTION ON PSYCHOLOGY OF THE BRITISH MEDICAL ASSOCIATION.

The officers of the Section on Psychology of the British Medical Association are:

President, T. W. McDowell, M. D.; Vice-Presidents, Thomas Lyle, M. D., Conolly Norman, M. D., F. R. C. P. I.; Honorary Secretaries, J. T. Calcott, M. D., City Asylum, Gosforth, New Castle on Tyne; Robert Jones, M. V., Earlswood Asylum, Earlswood Surrey.

## PSYCHIC PHENOMENA AND THE UNKNOWN.

The *Literary Digest* (Funk & Wagnalls, N. Y.) recognizes the increasing interest in psychical knowledge in the following terms:

"On both sides of the ocean, and in every language that has a periodical literature, psychic phenomena, the occult, the mysterious, are being discussed with an interest, a freedom, and a voluminousness heretofore unknown. There is undoubted evidence that this interest is growing and spreading, and that with its widening circle have been developed new sources of information derived from personal experience heretofore untold. A spirit of earnest and impartial investigation seems to be taking the place of the credulity which unquestioningly accepts, and the skepticism which arbitrarily condemns without trial. Evidence is being gathered, personal experience generalized, and phenomena which have been called 'supernatural' are being examined with scientific care and accuracy."

B. O. Flower, editor of the *Arena* (Boston), has latterly devoted considerable space to psychological subjects. He says:

"Few people appreciate the significance of recent progress along the lines of psychical research, the vast accumulation of facts which demand investigation, and the growing interest in occult problems among the most thoughtful people throughout the civilized world. The old-time prejudice, which, with supercilious arrogance, relegated all psychical or extra-normal problems to the realm of superstitions, is rapidly giving place to a spirit at once critical and yet truth-loving. From the evidence which is now being

carefully collected and sifted by scholarly bodies and individuals, I am led to believe we are on the threshold of a new world of thought—a realm which will far transcend, in interest and practical value, the new world which the evolutionists have given us in the domain of physical science.”

In February number, 1893, he quotes W. T. Stead's character sketch of the Poet Laureate, claiming extraordinary clairvoyant powers for Lord Tennyson, and cites from his poems, and those of Victor Hugo, Longfellow, Louise Chandler Moulton, and the Cary Sisters, to show that their belief in the guardianship and communion even with loved ones who had passed from eternal existence had colored and tinged their works.

W. T. Stead, the English editor of the *Review of Reviews*, has aroused the greatest interest, not to say sensation, in journalistic circles by his accounts of a marvellous psychic phenomena contributed by him in an interview to the London newspaper (*Light*), in which he asserts that his own hand would write automatically, wholly outside of his own conscious intelligence, the details of which, too long for our space, approached the marvellous and incredible. He claims that this power is quite independent of distance, and that communication can be made between living persons, not only without control, but at great distances.

Mr. Stead, in the interview already quoted from, says among other things :

“For the present my last word is this, that before many months are over, I think it will be admitted by every candid mind that the persistence of the individual after death, and the possibility of communicating with that individual, has been as well established on a scientific basis as any other fact in nature. That, you may think, is a bold assertion. It is not an assertion. It is a prophecy, based upon facts which are within my own knowledge, and of which I speak with as much confidence as I do of anything which has ever come within my own personal observation.”

The *Psychical Review* is the organ of the American Psychical Society (Boston), and is edited by Rev. T. E. Allen.

The December number, Volume No. 2, fairly launches the journal. Its leader is by Prof. John Rhodes Buchanan, on the Science of Psychometry. L. A. Phillips, M. D., contributes some cases of Psychical Diagnosis; B. F. Underwood writes on “The Totality of the Individual Mind;” Rev. T. E. Allen on “Prejudice and Psychical Research;” Rabbi Solomon Schindler contributes some very interesting “Experiments in Psychography—Slate Writing,” as does Hamlin Garland, and Calvin W. Parsons reviews, with sharp criticism, the Report of the Committee on Spiritualism of the London Dialectical Society.

*Revue de l'Hypnotisme* (January number, 1893), Edgar Berillon, editor-in-chief, contains original papers by D. A. Culliere on Hypnotic Suggestion as to Writing; Prof. Delbouef, of Liege, an paper entitled, “Thoughts on the Psychology of Hypnotism;” August Voisin, M. D., of La Salpetriere on “Treatment of Diseases by Suggestion;” Dr. Charles Vic, “Sur la Scoliose Hysterique,” and Dr. Van Renterghem, one upon “Surgical Operations Under the Influence of Hypnotic Suggestion, without Sleep.”

The New York journals recognize the public interest in these questions. The N. Y. *Herald* published recently a series of experiments with a young man and his cousin, who exhibited wonderful powers as to thought transference and mind reading, under test conditions that precluded fraud or accomplices, and the *Morning Journal* quite recently published a series of experiments, in which Mr. James G. Leonard was able to read, and correctly imitate, carefully prepared writings, enveloped and folded so as not to be seen, with members of the staff of that journal, under circumstances that precluded the idea of any trick or the aid of an accomplice.

The work of a Section devoted to the careful and scientific examination of the psychical phenomena now presented, with courage and firmness to prevent and expose fraud or imposition, will be great.

It is believed that a large circle of inquirers will be enrolled in the Section, out of which committees will be formed to take charge of such investigations, from which important facts will be elicited and discoveries made.

### MENTAL SUGGESTION.

Dr. Henry Hulst, of Grand Rapids, Mich., contributes an interesting paper to the *New York Medical Record*, March 4, 1894. We have space for only a few of his views:

"Since I left Europe (I arrived home October 1, 1892) I have made and recorded 421 experiments in hypnotism, besides one made before the journey, in all 422.

"I operated on 66 persons, aged variously from three to sixty-one years, 28 of whom were males, and 28 females.

"In the following table, intended to show the hypnotizability of my cases, I use the division of hypnosis adopted by Forel, for the sake of its simplicity.

								Males.	Females.	Total.
Somnolence,	-	-	-	-	-	-	-	7	6	13
Hypotaxia,	-	-	-	-	-	-	-	15	21	36
Somnambulism,	-	-	-	-	-	-	-	5	10	15
Not influenced,	-	-	-	-	-	-	-	1	1	2
Total,	-	-	-	-	-	-	-	28	38	66

"No doubt some of the cases classed under somnolence would have reached hypotaxia and somnambulism, if the experiments had been repeated oftener. Six of the thirteen were hypnotized for purposes not therapeutic. The remaining cases were relieved of gastralgia, pain in axillary abscess, backache, headache, toothache, and rheumatic pain, besides one other case, to which I shall refer later on. I mention these cases particularly to call attention to the fact that the lightest form of hypnosis may be very valuable.

"The most striking thing in the table is, perhaps, the small number of refractory cases I met with, only 2 in 66. Such, however, seems to be the rule. Wetterstrand, who conducts a psycho-therapeutic clinic in Stockholm, failed to hypnotize only 97 out of 3,148; Van Renterghem, in

Amsterdam, 7 out of his first series of 178; Liébault, 27 out of 1,011. Schmidkunz\* says that under proper conditions ninety-four to ninety-seven per cent. of all people can be influenced. 'Bernheim,'† says Moll, 'refuses the right to judge of hypnotism to all hospital physicians who cannot hypnotize at least eighty per cent. of their patients. Forel fully agrees with him.' Indeed, the latter alienist says:‡ 'Every mentally sound individual is hypnotizable.' The insane are hypnotizable with great difficulty, or not at all.' Auguste Voisin,|| however, stated in his very interesting 'Indications de l'Hypnotisme chez les Aliénés,' to the first International Congress, that he tries hypnotism on all insane cases which enter his service, and finds that he can hypnotize about ten per cent. Popular opinion holds that a certain amount of weak-mindedness predisposes to hypnosis. The reverse comes nearer the truth. One of my cases illustrates very beautifully the effect of alienation upon hypnotizability. My records show that when she was most disturbed hypnosis was most superficial and difficult to induce. Later on, when her mind cleared up and became free from hallucinations and delusions, she became a good subject. One of my two refractory cases was suffering from hysteria. Those who use hypnotism daily are pretty well agreed that some cases of hysteria, neurasthenics, hypochondriacs, and insane persons are least hypnotizable.

"I have employed psycho-therapeutics, as the clinical application of hypnotism to disease is frequently termed, very largely as an analgesic, to relieve or cure various aches and pains :

	Times.
Toothache, - - - - -	14
Pain from axillary abscess, - - - - -	1
Headache, - - - - -	23
Backache, - - - - -	16
Scarlet fever sore throat, - - - - -	1
Chest-pains (bronchitis), - - - - -	3
Rheumatic pains, - - - - -	6
Dysmenorrhœa, - - - - -	8
Pleurisy, - - - - -	2
Ovarian, - - - - -	2
Earache, - - - - -	1
Gastralgia, - - - - -	1

"The above experiments were, without exception, successful.

"In somnambulism, more or less complete anæsthesia I found to be the rule; but I have frequently caused it even in hypotaxia by way of experiment. Although hypnotism will never usurp the place of chloroform and ether, it is possible to render many minor and even capital operations painless by means of it; the patient watching every step of the operation and assisting if desired.

\*Psychologie der Suggestion, p. 152.

†Hypnotism, Contemp Science Series, p. 47.

‡Hypnotism, Wood's Monographs, vol. v., p. 172.

|| Comptes Rendus, p. 147.

"Eight times I stopped epistaxis by simple suggestion in hypnosis, in a girl who has been subject to frequent and severe attacks for many years, bleeding sometimes for hours at a time. I was about to plug her nostrils, other measures having failed, when it occurred to me to hypnotize her. I did not even make her sit down, but put her asleep standing over the basin into which the blood was dripping. The hemorrhage was arrested at once and completely. This was November 25, 1892. I had occasion to repeat the experiment six times before December 12, 1892. That day, at 5 p. m., I placed her in deep somnambulism and impressed upon her that her nose would bleed immediately after dinner. On awaking, she had no conscious knowledge of the events that had taken place during hypnosis. At 6:30 p. m., after dinner, her nose began to bleed and she came to me to stop it. She was again hypnotized, the bleeding was arrested, and while she slept I explained to her that, just as I had caused her nose to bleed, I now willed the hemorrhage never to recur. Thus far the epistaxis has not returned."

Dr. Hulst cites successful cases in obstructed menstruation, insomnia, leucorrhœa, and other diseases, and on tastes and habits. He cites, among other things, the following :

"To modify taste I have used hypnotism on two cases. One, a boy ten years of age, has an unsurmountable antipathy to sweet things. One of his aunts has had the same perversion. Although the hypnosis reached is not profound, he is beginning to eat sweet things, and says they are not so distasteful as they used to be. Lucy, whose case I mentioned before, detested cod-liver oil and all kinds of fats. A single hypnosis sufficed not only to cure her, but even to create in her a positive craving for them.

"As a moral agent to correct bad habits, I am using hypnotism on four cases. The first, a case of moral perversion, was at first partially successful, but the patient refused to go on. The second is under treatment for the tobacco habit, and the other two are chronic alcoholics. The cure in the last two cases promises to be radical.

"The remaining experiments were for idiocy, tic convulsif, multiple sclerosis, and enuresis. These cases have not been perceptibly benefitted so far."

In answer to the prevalent idea in medical circles, especially in New York City, Dr. Hulst says :

"Is hypnotism without danger? Can it do harm? Such questions I am asked daily. I think that depends upon how it is used. Thus far I have nothing to regret. It is an exceedingly sharp two-edged blade, and should not be put into irresponsible hands, nor used carelessly nor ignorantly. Wetterstrand has induced hypnosis about sixty thousand times, and says he has never seen nor heard that one of his patients felt the worse for it."

Is it not time that medical men commenced a fair trial of the therapeutic effects of the hypnosis?

What is the foundation for the popular idea among medical men who have *not* tried it, that the practice is harmful or dangerous?



## EXPERIMENTAL PSYCHOLOGY.

Prof. Henry Bradford Tichener, Assistant Professor of Psychology at Cornell University, contributes an elaborate paper to the March number of the *Medical Record*, which we should be glad to give in full had we space at our disposal. We quote what he says regarding what are known as Hypnotic Phenomena :

"Let me begin with two departments, which for many minds are coextensive with experimental psychology : I mean, with hypnotism and chronometry. Popular literature has fostered the delusion that these two provinces are all-important for the psychophysicist. And, indeed, as regards the former, we ourselves are a good deal to blame. At the August Congress\* there were several sittings devoted to the demonstration of hypnotic phenomena, and to the consideration of hypnotic 'hypothesis'—one feels, at times, that conjecture would be the better word.

"Professor Wundt has lately written a long essay, republished, by the way, in book form, on 'Hypnotism and Suggestion.'† The gist of his argument is that, though hypnotism has a great medical future before it, will play a very large part in therapeutics, the so-called hypnotic 'experiments' are not experiments at all. For it is of the essence of experiment that one factor in a complex phenomenon is varied at the will of the experimenter, while the rest remain constant. Isolation, repetition, and variation—these are the characteristics of the experiment of the natural sciences. Now, the success of a suggestion depends on circumstances which the 'experimenter' cannot control. Then again, it is only by practice that he can secure uniformity of result; and uniformity here means a barren uniformity, not the fruitful one of truly scientific experiment. For it is a characteristic of hypnotic phenomena that they admit of arrangement under a few practically constant rubrics. Lastly, experiments carried out during hypnosis show the most hopelessly divergent results.

"It is a little better with the few serious theories of the hypnotic condition which are extant; those of Bernheim and Wundt deserve mention, perhaps, in the first instance. But even these depend very largely upon hypothetical physiological processes. So that I would leave the practice of hypnotism, just now, to the physician. He has to cure his patient; he is justified in groping for remedies, and in using these remedies, when found, whether he can explain their working or not. How much is known of the physiological action of many of the drugs in common use? But I am terribly ashamed when I see, as I did at the London Congress, an educated audience applauding the skill of the hypnotizer, and laughing with Olympian laughter at the ridiculous gestures or words of the subjects. And I should not think it justifiable, at present, to institute hypnotic 'experiments' in a psychological laboratory. Rather let the psychologist go for his facts to the hospital."

\*London, 1892.

†Philosophische Studien, viii., pp. 1 ff.

This is salutary advice to the medical profession, but will they heed it? Why is it that medical men look askance at the trial of Mental Suggestion in treatment of disease? The public look to the physician to investigate this side of the phenomena. In the continental capitals and cities this is done. Why not here?

Prof. Tichener recommends that just now the practice of Hypnotic Experiment be left to the physician, but will the medical men of today accept the trust? A few courageous, able-thinking men, scattered here and there, may; the great body of physicians hesitate, and do not do so. There are not enough physicians in New York who would enter into this work to constitute a picket guard.

#### MR. ERNEST HART'S EXPOSURE OF FRAUDS IN HYPNOTISM.

Mr. Ernest Hart published in January, 1892, in the *Nineteenth Century*, an article based on a thirty years' experience of the facts and follies of so-called mesmerism and hypnotism, in which he defined his position as follows:

That he was convinced, after the employment of rigid test experiments and methods of control, that the familiar and now well-known phenomena of the hypnotic condition are due to purely subjective conditions; that there is no fluid of any sort, and no influence of any sort, tangible or intangible, which passes in these cases from the operator to the subject, except a suggestion by the word of mouth, or visible indications; and that it is quite sufficient that the subject should have the belief that will is being exercised, in order that the acts should be performed and the conditions induced which are supposed to be the result of a transferred influence, or an unexpressed will.

His views were expressed in the *British Medical Journal*, of which he is the accomplished editor, later, and the publications in the *Pall-Mall Gazette*, of December, 1892, and later in the *London Times*, of accounts of what was called the "New Mesmerism," as demonstrated at La Charité and at the École Polytechnique in Paris, based on authentic testimony of respectable eye witnesses, induced him to make an investigation into these demonstrations, as conducted by Prof. Luys and Colonel de Rochas d'Aiglun, as to thought transference, transference of sensibility, externatigation of sensation, influence of medicines in sealed tubes, and other reported manifestations, which, through the agency and assistance of Dr. Lataud, editor of the *Journal de Médecine*, of Paris, he was able to do.

He has published a series of articles in the *British Medical Journal*, commencing January 14, 1893, and continuing each week, January 21st, January 28th, February 4th, and February 11th, in which he has detailed at considerable length his own experiments upon and with the same subjects or medicines what had been used by Prof. Luys and Colonel de Rochas d'Aiglun, and he has denounced in very vigorous language the whole as a system of frauds and deceptions.

In these he does not assail the integrity or good faith of Dr. Luys, but claims that he was made the dupe of and was deceived by the impostors, and his excessive credulity imposed upon.

He repeated the same experiments upon some of the subjects that Dr. Luys had conducted, in his presence and that of Dr. Lutaud, at his rooms at the Continental Hotel, and by using demagnetized magnets and tubes, not containing the medicines which the medium supposed them to contain, he produced the same effects of drunkenness, without alcohol, in fact, and other similar manifestations, which were made in the presence of Dr. Lutaud, Dr. Sajous, Dr. De Cyon, Dr. Olivier, M. Crémière, of St. Petersburg, and others.

We have space for only a part of these detailed examinations.

The one with Madam Vix is a sample, which we condense :

"The subject, Madam Vix, being plunged into alleged 'profound hypnosis,' was handed a glass of water. To this she transferred by contact her own sensitiveness; the atmosphere surrounding her being similarly charged with her sensibility—she herself becoming anæsthetic. When pinches were made in the air at given distances, which were supposed to represent points of contact and lines of cleavage of the atmospheric planes, such pinches were always felt by her and gave what is described as 'evident pain.' When the water was removed to a distance and the glass stroked or pinches made in the air just above the water, or the water itself touched, she gave similar manifestations. \* \* \* She did the wax-image business, the state of sympathy by contact, and the rest, with such perfection before me under the manipulations of Colonel de Rochas \* \* \* that I asked her to favor me with some professional sittings, which she readily consented to do. \* \* \* I determined to do everything *en faux*. \* \* \* As to seeing colored odic flames from the magnet, she saw them 'six yards long;' but, in fact, when proper tests were applied, she was found to be absolutely incapable of distinguishing a true magnet from a false one. She never knew whether the current was on or off my electro-magnet; and her whole performance in this respect, although she was not made aware of it, was so manifest and ludicrous an imposture that the bystanders had great difficulty in retaining their gravity. I tested now the phenomena to which the sham scientific terms of 'externalization of sensation,' 'communication by contact,' and 'transference across space,' are pretentiously applied. \* \* \* I concealed a tumbler containing water. In duly solemn fashion I poured out from a caraffe a little water into a similar glass and placed it in her hands. I then quickly substituted, without her perceiving it, the hidden glass of water which she had neither seen nor touched. We then had a full-dress rehearsal of all the performances I had previously witnessed. She showed the same 'obvious' marks of pleasure or of pain when the water was caressed or pinched, as were witnessed by the *Times* correspondent or the *Pull-Mall Gazette* reporter. When one of the spectators was placed in imaginary contact with me, she became equally sensible of his actions; she writhed, she smiled, she was tickled, she was hurt, and she was exhausted in the orthodox manner. I now introduced the 'wax-figure.' \* \* \* I had purchased two rather pretty little sailor dolls, twin brothers of the navy. \* \* \* One of these she held until it was sufficiently 'charged with her sensitiveness' by contact. I then substituted the twin doll from my pocket, and put away the

sensitized doll for future service. To make the performance quite regular, I cut off a minute lock of her hair and pretended to affix it to the doll. To this proceeding, which I had seen Colonel de Rochas gravely go through, she rather objected in her profound sleep, much to our quiet amusement. '*C'est trop, c'est trop,*' she murmured, apparently thinking that I was taking too much hair. I need not say that I did not affix it to the doll. \* \* \* We then produced, with the aid of the untouched doll, just unrolled from the tissue paper of the toy-shop, all the phenomena of the *envouement* of the sorcerers \* \* \* which have figured so largely in the pages of the great newspapers of England and France. She felt acutely when its imaginary lock was touched and pulled, whether by myself or by Dr. Sarjous, by M. Cremière, or by anyone else in the room. She greatly resented its being pricked; \* \* \* and she was duly suffocated when we pretended to sit down on the doll. I am ashamed to say that the real doll was lying there all the time, cruelly stabbed by me to the heart with a stout pin, of which she was unconscious. Its maltreatment, which ought theoretically to have been fatal to her, produced no visible effect ! "

We give Mr. Hart's description of the experiments he made on January 6, 1893, with another subject, who had been experimented upon by Col. de Rochas, in the wards of Dr. Luys, in the presence of Mr. Hart, Dr. Luys, and others :

"We began by hypnotising her after the classic method of M. de Rochas and Dr. Luys, putting her through the successive stages already described. I had prepared an electro-magnet of considerable power, from which the current could be turned on or off with great rapidity by touching a button or by lifting the plates from the bath, or, of course, by detaching one or other of the wires. I had also a bar of iron resembling the magnetised bar which M. Luys had used, but which was not magnetic, a demagnetised magnet, and a set of needles variously and inversely magnetised. I had also two exactly similar wax dolls brought from a toy shop, and two exactly similar glasses of water. We began the proceedings by *prise du regard*, which was perfectly performed; we then used the magnets. I signalled to the assistant, and told him to put on the current, whereupon he turned it off. Accustomed, however, to believe that a magnet must be a magnet, Marguerite began to handle it. The note taken by D. Sajous runs thus: 'She found the north pole, notwithstanding there was no current, very pretty; she was, as it were, fascinated by it; she caressed the blue flames, and showed every sign of delight. Then came the phenomena of attraction. She followed it with delight across the room, as though fascinated by it; the bar was turned so as to present the other end, or what would be called, in the language of La Charité, the south pole; she fell into the attitude of repulsion and horror, with clenched fists, and as it approached her she fell backward into the arms of M. Cremière, and was carried, still showing all the signs of terror and repulsion, back to her chair. The bar was again turned till what should have been the north pole was presented to her; she resumed the same attitudes of attraction, the tears bedewed her cheeks.

'Ah,' she said, 'it is blue, the flames mount,' and she rose from her seat, following the magnet round the room. Again the pole bar was reversed, and once more she exclaimed that she saw 'Tout rouge, tout rouge.' Similar but false phenomena were obtained in succession with all the different forms of magnet and non-magnet; she was never once right, but throughout her acting was perfect; she was utterly unable at any time really to distinguish between a plain bar of iron, a demagnetised magnet, or a horse-shoe magnet carrying a full current and one from which the current was wholly cut off. In the latter part of this sitting Dr. Olivier entered the room and witnessed the second series of magnetic experiments as well as the experiments of externalisation. We took one of the dolls. We restored her to the perfectly hypnotised condition, and when she was profoundly plunged in the state which is described as profound hypnosis I placed a doll in her hand, which she held long enough to sensitivise it. I then, taking the doll from her, rapidly disposed of it behind some books, and proceeded to operate on another doll which she had not touched and which I had just taken out of the box in which it came from the toy shop. Holding her hand I placed her in contact with Dr. Sajous, that he might also be, to use the jargon of the school, *en rapport* with her, and I continued to hold her hand. If now I touched the doll's hair, which she was supposed not to see, she exclaimed, according to the notes, 'On touche les cheveux,' 'On les tire,' and as she complained it hurt her, we had to leave off pulling the doll's hair. Taking it to a little distance, I then pinched it; she showed every sign of pain, and cried out 'I don't like to be hurt—je ne veux pas qu'on me fasse de mal.' I tickled the cheek of the figure, she began to smile agreeably (I am still quoting from the notes.) I put away the witness dolls, and we proceeded then to the effects of medicine tubes applied to the skin. I took a tube which was supposed to contain alcohol, but which did contain cherry laurel water. She immediately began, to use the words of the note, to smile agreeably and then to laugh, she became gay, 'It makes me laugh,' she said, and then 'I'm not tipsy, I want to sing,' and so on through the whole performance of a not ungraceful *griserie* which we stopped at that stage, for I was loth to have the degrading performance of drunkenness carried to the extreme, such as I had seen her go through at the Charité. I now applied a tube of alcohol, asking the assistant, however, to give me valerian, which, no doubt, this profoundly hypnotised subject perfectly well heard, for she immediately went through the whole cat performance which I have already described as having been performed for my delectation by Mervel under the hands of Dr. Luys on the previous day. She spat, she scratched, she mewled, she leaped about on all fours, and she was as thoroughly cat-like as was Mervel on the previous day, and Jeanne on the subsequent day. It would be tedious to go through the whole of the notes of the numerous sittings which I had with these five subjects, but I may say at once that we had the cat performance six times, twice with Jeanne, twice with Vix, once with Clarice, and once with Mervel. In no case, by any accident was valerian used; it was either sugar, alcohol, diabetic sugar, cherry laurel water, or distilled water, but the performance

never failed when the subjects had reason to think it was expected of them."

To sum up these and other experiments and tests made by Mr. Ernest Hart, he says, finally:

"I had very numerous sittings, and carried out, in the methods which I have above described, numerous and complete counter-tests, selecting always and only the patients who had been presented to me, and the subjects who had been operated on by Dr. Luys and Colonel de Rochas. It will suffice here if I say that never by any accident did any one of these subjects show any power of discerning the effects of magnetised from non-magnetised iron; that the pretensions of Dr. Luys that they could distinguish between magnetic photographs, so-called, and non-magnetic were in every case ascertained to be unfounded; that the communication of sensations or thought by contact never took place in any case unless the subjects knew precisely what was the nature of the comedy to be played, and then they played it more or less well; that the cat performance and the drunken scenes came off six times when the subject supposed that the tubes contained alcohol, but when they really contained divers substances, none of which were alcoholic; that the scenes produced were acted in the same way under the influence of an empty tube, of a tube of alcohol, and of a tube of valerian."

To the accuracy of these statements Mr. Hart publishes in the *British Medical Journal* of February 11, 1893, three letters of eye witnesses, each of whom fully sustain him. One from Dr. De Cyon, the well-known physiologist, dated January 28, 1893; one from Dr. Louis Olivier, editor *Revue Générale des Sciences pures et appliquées*, under date of January 19, 1893, who asserts "That it is well that it should be known in England that the opinion of these experimenters (Luys and de Rochas) finds no support in the French scientific world"; and one from Dr. Lutaud, who says: "I have read with most lively interest, in the *British Medical Journal*, your notes of the New Mesmerism, and I hasten to state that you have reproduced very faithfully the opinion of all those who were present at the Paris experiments, and that your judgment, although severe, is absolutely just."

Mr. Ernest Hart says in his later article, February 11, 1893, in commenting upon the impositions practiced upon Dr. Luys, whom he does not at all claim was a party to the frauds, in speaking of the hypnotic sleep:

"I pass now to the consideration of the underlying substratum of fact on which this huge structure of imposture and credulity is built. As I have already sufficiently indicated on this and on previous occasions, the artificially induced sleep known by the old-fashioned Latin name *somnambulism*, or, subsequently, as *mesmerism*, and rebaptised in Greek *hypnotism*, as though it were a new thing, is a subjective phenomenon of great interest, and of some complexity. It is, perhaps, not altogether unworthy of the attention which has been bestowed on it by French and German physicians. On the other hand—and here I can only venture to express a purely personal opinion, which will be taken for just what it is

thought to be worth—I, at least, am of opinion, after carefully watching the course of events at the Salpêtrière and Bicêtre, and studying the enormously voluminous literature which owes its origin to the school of Nancy, to the Paris school, and to Belgian and Austrian writers, that the importance of these studies has been vastly exaggerated. I am disposed to think that it is rather the picturesque eccentricity of the phenomena and the striking *mise en scene* to which human automatism lends itself, which has attracted so much attention, than any real medical or physiological importance of the subject. Hypnotism, even as practised in the Salpêtrière, has, so far as I can see, taught us little, if anything, of the functions of the brain or of the organs of the mind which we did not know before. I find little in the writings of Charcot, of Bernheim, or of Janet, but an excessively detailed development of facts and principles, already soundly, clearly, and usefully laid down by Carpenter and Braid. With a lucidity, clinical power, and picturesqueness which are beyond praise, M. Charcot has described, pictured, and exemplified a most striking series of hysterical phenomena. He has shown that nearly all, if not quite all, hypnotics are neurotic persons to whom the general classification of hysteria or neurasthenia may fairly be applied."

It is only just to Dr. Luys to say that we have not seen his reply to the strictures of Mr. Hart, especially that published in the *London Times* of January 31, 1893, but we see that Mr. Hart refers to it, as stating by Dr. Luys, "That the persons to whom Mr. Hart applied, and on whom he experimented, were patients on whom he, Dr. Luys, had long ceased to have recourse to, being unable to depend upon their veracity."

We shall, of course, look with interest to the utterances of Dr. Luys and Colonel de Rochas upon this subject.

We shall also listen to the evidence of others who have made experiments with subjects as to the effect of mental suggestion.

Mr. Hart is not singular in discrediting the therapeutic effect of a remedy by suggestion. The tests he applied are of the simplest character, and can always be applied, and it is, of course, apparant that all subjects are not necessarily frauds or impostors.

More can be learned from one that is not an impostor than from one who is.

Both sides of the question should be examined with fairness, and the utmost care taken by those testing these questions, to prevent deception or imposition on the part of the subject or medium.

Mr. Hart seems to have demonstrated beyond doubt or cavil that all these subjects on which he experimented were frauds and impostors, of which there can be no doubt and which we understand Dr. Luys now concedes.

This being granted, their evidence, or conduct, is unworthy of credit or even notice. They cease to be of the slightest scientific value or weight. The investigation should proceed with subjects who are beyond doubt or question, and the true field in therapeutics is that of the medical man in his practice when the element of imposition on the part of the patient is eliminated.

## TRANSACTIONS.

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### MEDICO LEGAL SOCIETY—JANUARY MEETING.

The Society met for the installation of officers at its annual banquet at Moretti's, 4 West 29th Street, New York, January 19, 1893, at 7 p. m., the President, Judge H. M. Somerville, in the Chair, and Clark Bell, Esq., Secretary.

After the cloth was removed, the retiring President made an address, and introduced his successor, Judge Abram H. Dailey, who delivered his inaugural address.

The officers elected at the annual meeting were thereupon duly installed as officers of the Society for the ensuing year.

The following persons were elected members of the Society on the recommendation of the Executive Committee:

#### ACTIVE MEMBERS.

Charles S. Collins, M. D., The Kenmore, 59th and 9th Avenue, New York; Dr. Sheldon Hopkins, The Alpine, Broadway and 33d Street, New York; Frank L. Donohue, Esq., 96 Broadway, New York.

There was a large attendance of ladies, members, and invited guests at the banquet. Mr. Clark Bell was called to the Chair after the retiring and inaugural addresses were made, and the evening was enlivened with music and song.

Speeches were made by Hon. E. T. Talieferro, of Alabama; Ex-Gov. B. T. Biggs, of Delaware; Surrogate Rastus Ransom, of New York; Dr. T. D. Crothers, of Connecticut; Dr. I. N. Quinby, of New Jersey; Dr. Ferd C. Valentine, of New York.

ABRAM H. DAILEY,

*President.*

CLARK BELL,

*Secretary.*



## MARCH MEETING.

The Society met March 8, 1893. In the absence of the President, Vice-President M. Louise Thomas took the Chair, and Clark Bell, Esq., acted as Secretary.

The minutes of the meeting of January 19, 1893, were read and approved.

Mr. Clark Bell read a paper entitled "Malpractice."

The following persons were duly elected members of the Society:

## ACTIVE MEMBERS.

Proposed by Judge Abram H. Dailey: E. J. Granger, Esq., 128 McDonough Street, Brooklyn, N. Y.; Jerry A. Wernberg, Esq., Arbuckle Building, Brooklyn, N. Y.; W. B. Hurd, Esq., 99 Broadway, Brooklyn, N. Y.; Dr. George Everson, 125 Willoughby Street, Brooklyn, N. Y.; A. H. VanCott, Esq., Franklin Trust Building, Brooklyn, N. Y.; Robert J. Wilkins, 105 Shermerhorn Street, Brooklyn, N. Y.

Proposed by Dr. Conn, of New Hampshire: George W. Fellows, Esq., Manchester, N. H.

Proposed by Dr. M. D. Field: William Popham Platt, Esq., White Plains, N. Y.

Proposed by Clark Bell, Esq.: Irving M. Dittenhoefer, Esq., 96 Broadway, New York.

## CORRESPONDING MEMBERS.

Proposed by Clark Bell: Ex-Chief Justice B. F. Bonham, Salem, Oregon; Judge Oliver Wendell Holmes, Supreme Court of Massachusetts, Judge Charles Allen, Supreme Court of Massachusetts, Boston, Mass.; Judges James B. Head and John A. Haralson, of the Supreme Court of Alabama; H. E. Allison, M. D., Sup't Mattewan State Hospital; R. Harvey Reed, M. D., Mansfield, Ohio. Alonzo Garcelon, M. D., Executive President Section of Medical Jurisprudence, Pan-American Medical Congress, Lewiston, Maine;

Dr. Plutareo Ornelas, San Antonio, Texas; Prof. William Pepper, President Pan-American Medical Congress, Philadelphia, Pa.; Charles A. L. Reed, M. D., Secretary Pan-American Medical Congress, Cincinnati, Ohio.

At this point the President, Judge Abram H. Dailey, appeared and explained his accidental delay, and he read a paper entitled "The Conflict Between Parental Authority and the Society for the Prevention of Cruelty to Children."

This paper was discussed by Mrs. M. Louise Thomas, Mr. E. W. Chamberlain, and Mr. Clark Bell.

On motion of Clark Bell, Bettini de Moise, M. D., and R. Asselta, M. D., were appointed delegates of this Society to attend the International Medical Congress in Italy next September, to represent this Society before that body, and present to that organization the work and scope of this Society.

Mr. Bell announced the death of the Hon. Richard B. Kimball, an old and highly respected member and former officer of this Society, and made an address eulogistic of his life and career.

A paper entitled "Privileged Communications," by Clark Bell, was read before the Society.

The Secretary laid before the Society No. 1, Vol. 1, of the *Bulletin* of the Psychological Section of the Society, and the address of the Chairman, C. Van D. Chenoweth, which was read by Mr. Bell.

The Society then adjourned to meet in Brooklyn on the second Wednesday of April, 1893.

ABRAM H. DAILEY,  
*President.*

CLARK BELL.  
*Secretary.*

## AMERICAN INTERNATIONAL MEDICO-LEGAL CONGRESS OF 1893.

### COMMITTEE OF ARRANGEMENTS.

The following Provisional Committee of Arrangements for the International Medico-Legal Congress is announced, which will be subject to changes to be hereafter announced :

CLARK BELL, Esq., of New York.	T. D. CROTHERS, M. D., of Conn.
Hon. C. H. BLACKBURN, of Chicago.	FRANK P. NORBURY, M. D., of Ill.
Judge H. M. SOMERVILLE, of Ala.	MILO A. MCCLELLAN, M. D., of Ill.
Judge ABRAHAM H. DAILEY, of N. Y.	C. H. HUGHES, M. D., of Mo.
MORITZ ELLINGER, Esq., of N. Y.	Dr. U. O. B. WINGATE, of Wis.
E. A. BROWN, Esq., of Ill.	Dr. FRANK HOYT, of Ia.
Dr. DANIEL CLARK, of Ontario.	

Dated, March 16, 1893.

CLARK BELL, *President*.

M. ELLINGER, *Secretary*.

Henry Hulst, M. D., of Grand Rapids, Mich., former Physician for Michigan Northern Asylum for Insane, will read a paper before the International Medico-Legal Congress, entitled, "Hypnotism."

William W. Ireland, M. D., of Scotland, will contribute a paper to the International Medico-Legal Congress.

Judge Conway W. Noble, of the Ohio Common Pleas, at Cleveland, will read a paper at the International Medico-Legal Congress in August next, the title to be hereafter announced.

### THE WORLD'S CONGRESS AUXILIARY.

As we go to press we learn from Dr. James G. Kiernan, of Chicago, that the date of the Congress, to be held under the auspices of this body in relation to Medical Jurisprudence, has been fixed for June 12, 1893, at Chicago, under the direction of a committee, of which Dr. Lester Curtis is Chairman, with A. Lagorie, Prof. H. N. Moyer, C. F. Lydston, and Harriet C. B. Alexander. We sincerely regret not having received the official programme of the Congress, or a list of the papers to be read, which we should have published with pleasure in this number.

# MICROSCOPICAL.

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THE KENT LAW SCHOOL OF CHICAGO.

CHICAGO, February 7, 1893.

EDITOR MEDICO-LEGAL JOURNAL:

Referring to Vol. X, No. 3, MEDICO-LEGAL JOURNAL, p. 252, of the paper by Dr. Joseph Jones, I find his statement relative to the microscopic and chemical examinations of alleged blood stains: "(4) The spots on the cotton were due to *human* blood."

In view of the consensus of opinion among microscopists who have examined this question, that in the present state of science it is impossible to identify human blood, as such, it would be interesting to know how Dr. Jones reached a conclusion at variance with the almost unbroken current of authority.

Respectfully,

M. D. EWELL, M. D.

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## THE AMERICAN MICROSCOPICAL SOCIETY.

Part 1 of the proceedings of this body at its annual meeting, held at Rochester, New York, August 9 to 12, 1892, was published in October, 1892; Part 2, in January, 1893.

The proposition to hold the annual meeting of 1893 in conjunction with the Auxilliary Committee of the World's Fair, of which Charles E. Bonny is Chairman, was discussed:

Professor Gage then opened the discussion of the working session at the World's Fair. He said Professor Burrill, of Champaign, was Chairman of the Auxiliary Committee on Microscopy, but that he had nothing to do with the working session, and that he, Professor Gage, had embodied his suggestions in the circular which was sent out in April of this year.

President Ewell: We should decide if we will preserve our autonomy or coöperate with Professor Bonney. He wants to hold several congresses to discuss all the great questions of the day. To have these unified this Society must surrender its individuality, except as regards its regular business. All papers must be read in the congress.

Professor Kellicott: Is this plan published?

President Ewell: The Section on Jurisprudence have sent out an address suggesting subjects for discussion, and have named eminent men to assist. At the same time societies have a local pride that objects to such a merger of themselves.

Professor Gage: I move this Society join the World's Fair Auxiliary Congress.

The motion was seconded.

Professor Kellicott : Does this come as an invitation ?

President Ewell : Yes, I am authorized to extend this invitation.

Professor Rogers : It is beyond the power of any set of men to secure the object sought. I am vice-president of a section. It is not made up of men who will command confidence.

President Ewell : Mr. Bonney will make such changes as can be shown to be necessary, if he is requested.

Professor Rogers : Only one name is among the astronomers that will command confidence and secure the coöperation of the best men.

Mr. Schultz : Can this Society go before the World's Fair as such ? Would they have any standing, any halls, etc. ?

President Ewell : I shall be in a position to control halls. The Auxiliary has at its command about thirty halls.

Professor Kellicott : Is the time fixed ?

President Ewell : Mr. Bonney desires to hold the Congress in May. Many of our members are teachers, and cannot come in May.

Professor Gage : I made my motion to bring the matter before the Society. At the French Exposition we had a Congress of Zoologists, but here I do not see how we can do anything at the dictation of one man. He has appointed Professor Burrill, who is near him.

Professor Claypole : I agree with what Professor Gage has said. I have seen some correspondence on a kindred affair, and I doubt if it will be a success as far as we are concerned or as far as anybody is concerned. If anything is done we ought to take the lead as a scientific society. Visitors will come in July, August, and September. May is out of the question. We had better make our plans and let them be known in Europe; they will have more confidence in us.

On taking a vote it was unanimously resolved not to take part in the Congress.

#### BLOOD AND BLOOD STAINS.

The following discussion took place on the reading of Mr. Clark Bell's paper on "Blood and Blood Stains," on August 11, 1892 :

Dr. White: We cannot say that any given blood is human, but we can often say it is not human, which is often quite as important. The blood is not affected by ordinary diseases to alter the size of the blood corpuscle.

President Ewell: You will find reported in the North American Practitioner for March and April, 1890, a case in which the corpuscles were larger than usual.

Mr. Clark Bell: Were they not degenerated?

President Ewell: No; they were anæmic and of a large diameter.

Dr. White: As Dr. Woodward, in his testimony before the court in the New Haven case, said he included in his measurements one-half of the shaded rim of the corpuscle, the possible differences in micrometers ought not to exceed 0.01 per cent., and this possible error is not sufficient to bring the average size of the corpuscles of domestic animals up to that

of man. Dr. Woodward in 1879 showed under oath the large size of the corpuscles of a dog, but he selected large corpuscles, and thus got large averages.

Mr. Clark Bell: No author claims that the corpuscles of dried blood are larger than those of fresh blood.

President Ewell: I have examined the blood of a dog daily from the time it was two days old until it was six months old. At first the disks were larger than human; they then diminished until they became smaller.

Dr. L. Curtis: The whole subject is in confusion. No conscientious observer will appear in a court of justice and swear that a certain stain is human blood. I move a resolution as follows:

*Resolved*, That it is the opinion of this Society that in the present state of science there is no means of determining that any particular sample of blood is human blood.

The resolution is too sweeping.

Professor Kellicott: My feelings are in sympathy with the resolution, but I hesitate to place the Society on record.

Dr. White: I am afraid the resolution will produce the impression that medical testimony is of no value. The question in the celebrated Lindsay case was whether certain stains were man's blood or pig's blood. Dr. Richardson demonstrated that the stains were human blood, and was willing to stake his life on the result.

Dr. A. C. Mercer: I do not think it proper for this Society to put itself on record in any such way. I heard much of the Lindsay trial, and saw Dr. Richardson's preparations. As the facts of the case narrowed the question submitted to Dr. Richardson as to whether certain stains were human blood or pig's blood, Dr. Richardson was able to say—and could be made to say only—"If this blood be man's blood or pig's blood, then this blood is man's blood." Undoubtedly other cases will occur in which peculiar circumstances will make it possible to say that a "particular sample of blood is human blood." It would be absurd and incompatible with the dignity of this Society to officially express a contrary opinion.

Professor Claypole then described the action last year on a similar motion, which was negatived.

Dr. Gleason: Do we see what we see, or don't we see what we see?

Dr. Miller: We are not all experts in one thing. We are not all devoted to blood; some study plant life, some other things. Now, we have men on both sides of the question, and it would be manifestly unwise to attempt to settle it here. I move to lay the subject on the table.

Dr. Miller's motion was seconded, and the subject was laid on the table.

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The American Microscopical Society publish, at page 91 of their proceedings of 1892, a resume of Mr. Clark Bell's paper, "Blood and Blood Stains in Medical Jurisprudence," giving nearly all the illustrations, all the tables, and making about 29 pages of matter.

## JOURNALS AND BOOKS.

THE ORIGIN OF LIFE. By O. S. St. John, M. D.; T. A. Wright, publisher, N. Y. (1892.)

This monograph is a lecture or address made by the author March 11, 1892, and is made to preserve and record the views of Dr. St. John concerning Celestial Mechanics and the Origin of Life.

Dr. St. John defines life as "the action between particles of matter, whether cosmic, chemical, vegetable, or animal. \* \* \*

"Life is not confined to one field, neither to animals, vegetables, nor minerals, nor is it alone cosmic. It ranges through the whole field of matter.

"Life is a result. It is not a specific entity. It comes of the action of physical matter upon physical matter."

These sentences express Dr. St. John's views as to what life is, as a result.

Its cause he claims is electricity, and the dual quality of that fluid the means of its generation or creation upon the earth.

He says: "In 1840 I first contended that this electrical principle was the means of explaining the phenomena of that force we term Life."

And he claims that electricity is the *vis vitæ* of all the phenomena we call Life.

Speaking of electricity, he regards it as one material force which pervades the whole system of natural existence, and exists wherever matter exists. He believes that it pervades inter-planetary and stellar space, and fills that space which science has often spoken of as *ether* with this subtle, and in many respects, inconceivable but infinitely abounding, fluid.

It is the only force known to science which possesses the dual quality of drawing to and repelling from, particles of matter.

These dual attractive and repulsive forces of electricity are exactly equal, and are ubiquitous, omnipresent, and co-existent with all matter throughout the universe.

Life is caused, generated, or created by the dual quality of attraction and repulsion upon the protoplasm.

The globe of protoplasm charged with the fluid by the attraction divides itself into two parts in obedience to the law of repulsion; similarly electrified points repel or divide the cell of protoplasm.

The separate portion moves away from this half cell to where another cell has divided, and attaches itself to the opposite half of that cell, and that union, by the electric spark, causes Life.

Everything in Animal Life comes from an egg.

At a certain moment of the most ecstatic orgasm during sexual commerce passing between the positive and the negative, vivifies the egg, and life commences.

We have not space to follow Dr. St. John's reasoning into Celestial Mechanics. It is enough to say that his explanation of the fault in Newton's Theory of Gravitation, as to why the comet does not fall into the sun, is in entire harmony with Dr. St. John's Theory of the Duality of Electricity and the Law of Attraction and Repulsion, and answers a question, the rationale of which has not been explained by Newton's Theory of the Attraction of Gravitation.

How the comet passes the perihelion is an inexplicable phenomena under Newton's Theory, but it is both explained and reconciled by Dr. St. John, and is in harmony with his views.

There is a world of thought in this little monograph. It is well worth the study of our students of solar and stellar ethics.

Dr. St. John questions whether there is any such thing as death in the common acceptance of that term—the whole universe, is a theatre of two actions, one of building up and the other of taking or tearing down.

The process we call death is identical, with that which builds up the body into that condition we have always called life; and he quotes Dr. Michael Foster, "that the difference between a dead human body and a living one are still, to a large extent, estimated by drawing inferences rather than actually observed."

AMERICAN JOURNAL OF INSANITY. January number, 1893.

This journal contains an excellent portrait of Dr. Peter Bryce, late Vice-President of the Medico-Legal Society of New York for Alabama, and for years Superintendent of the Alabama State Hospital for the Insane, with the memorial address pronounced by Judge H. M. Somerville before the Medico-Legal Society, as a fitting tribute to this distinguished alienist and physician.

Dr. Thomas G. Morton, Chairman of the State Committee on Lunacy of Pennsylvania, presents a strong protest against the practice of removal of the ovaries of women who are insane, which he fortifies with the opinion of Thomas W. Barlow, Esq., the legal member of that committee, who denounces, in the strongest language, the practice as brutal and inhuman. He concludes his unusually severe criticism with this statement: "As a member of the State Board of Charities, I deem it to be my duty to protest against such a proceeding, and as the legal member of the Committee on Lunacy, I pronounce it to be illegal and unjustifiable."

This number also contains two most important papers from a medical standpoint upon the subject. We have recently seen one produced by T. W. Springthorpe, M. D., Physician to the Melbourne Hospital, Australia, and W. L. Mullen, M. D., Late Medical Officer Metropolitan Asylum, Victoria, also a Barrister and Solicitor of the Supreme Court of Victoria, upon the subject of "The Plea of Insanity in Criminal Trials."

The *raison d'être* of these papers is the remarkable attitude of the Supreme Court of Victoria in the case of Regina v. Colston, in which the Court claimed, "That neither medical science nor discussions in courts of law have enabled the legislature, on one hand, or courts of law, on the other, to arrive at a test sufficiently accurate in definition, and capable of being applied to the circumstances of particular cases, as to justify, in my



opinion, a court of justice in introducing this new test into the administration of criminal law."

This paper, and the other by F. Norton Manning, M. D., Inspector-General of the Insane for New South Wales, entitled, "Insanity in Its Relation to the Law," were read at the International Medical Congress at Sydney, N. S. W., last September, and both are given at length in this number of that journal.

The former paper, after an able presentation of the present medical view of responsibility, suggests that "instead of regarding insanity as a matter of conduct, that it be considered as a disease of the brain."

That for legal purposes, it be defined "as a disease of the brain affecting the intellect, the emotions, and the will, not immediately induced by the default of the individual," and that two simple questions be left to the jury :

1. Has the accused such a disease ?
2. Is the crime the outcome of that disease ?

The most remarkable fact in connection with the paper of Dr. F. Norton Manning is the assertion that from 1868 to 1892 there were 49 acquittals in that Colony on the grounds of insanity, of which 25 were capital cases and the remaining 24 were for grave offenses not capital.

That during the same period the number of capital cases found guilty and sentenced, where the defense of insanity had been interposed, was 12, and of grave offenses not capital, who were certified to be insane after conviction, 13.

Having all these 74 cases under careful personal and official observation, and in many of them consulted by the executive, Dr. Manning says nine of those found guilty and sentenced to death were reprieved and subsequently dealt with as insane persons ; that in three cases the prisoners were executed, and that in the three cases executed a strong popular clamor was raised against the executions.

The most remarkable statement of all is that in the 49 cases acquitted on the ground of insanity, the juries were charged under the doctrine known as the "right and wrong" test, and in most cases in the language of the answers of the Judges to the House of Lords in what is called the *McNaghten Case*, except in one or two cases, when a more enlightened view was taken by the court. That in these 49 cases more than one-half of the accused persons knew at the time the act was done :

- a. The nature or quality of the act, and—
- b. That the act was wrong and contrary to law, and yet, despite the Judges' directions, the juries, impelled by the medical evidence, the arguments or appeals of counsel, or by a common-sense view of the question, took the bit between their teeth and gave a verdict of acquittal on the grounds of insanity in defiance of the Judges' directions, though probably, in most instances, with his real concurrence.

Dr. Manning also says that of the 12 condemned, the nine reprieved were mostly done on the report of the Judges, who had sentenced them on further inquiry and light upon their cases, occurring after the trial, showing their insanity or irresponsibility.

Dr. Manning also claims that the Courts should, without the aid of medical men, reach higher and more rational ground in the trial of these cases, as had been done in some recent cases, citing the action of the American Courts, and the dicta of Mr. Justice Wright, in a case tried at Warwick, England, in July, 1892, where the verdict was "guilty, but not responsible, being insane at the time of committing the act," on a charge, "That it was not sufficient to show that a prisoner was aware of the nature of the act to enable one to say if he was responsible, for he might not be able to resist an impulse, and if a man's act was the direct outcome of an insane delusion, he ought not to be held responsible for the act."

Also citing the case of one of the Judges of the Supreme Court of that Colony, Sir George Innes, who, during a murder trial about 1886, when insanity was pleaded, directed a jury as follows :

"There is no reason to suppose that the prisoner, at the time of committing the murder, did not know the nature of the act he was committing, or that he did not know that he was doing an act highly criminal, or that he was in any way, from disease of mind, unable to control his actions." (Trial of T. O. S. for murder of Darenghurst.)

LAW REPORTS. By an arrangement of the Council of the Bar of the Province of Quebec the printing of the official law reports has been transferred to the Gazette Printing Company. These reports are published by the Council and furnished to every advocate on the roll. Other persons requiring them can procure them by addressing the Gazette Printing Company, Montreal, who are sole agents for their sale. The price fixed by the council of the Bar is \$9 a year for both reports—Queen's Bench and Superior Court. The Gazette company have just issued the first numbers since they have taken control. They will be issued regularly now, it is hardly necessary to say, well printed and well gotten up generally.

## BOOKS, PAMPHLETS, AND JOURNALS RECEIVED.

Robert H. M. Dawbarn, M. D.—Arterial Saline Infusion. (1892.)  
Checking Bleeding After Tonsillotomy. (1892.) Vegetable Plates in  
Bowel and Stomach Surgery. (1893.)

Moritz Benedikt.—Epilog Zum Pragen Prozesse Waldstein. (1893.)

Charles Templeman, M. D.—Sudden Death in Medico-Legal Practice.  
(1893.)

Dr. W. H. Seaman.—From Proceedings of American Microscopical  
Society, Mr. Clark Bell's Article on Blood and Blood Stains in Medical  
Jurisprudence. (1892.)

Prof. R. Harvey Reed.—Annual Announcement of the Ohio Medical  
University. (1892-1893.)

H. E. Allison, M. D.—32d Annual Report State Asylum for Insane  
Criminals. The Insane Criminal. (December, 1892.) Motives Which  
Govern Criminal Acts of the Insane. (May, 1892.)

Wyatt Johnston, M. D., Montreal.—Fracture of Skull by Gunshot  
Wound in Left Orbit. (1893.)

G. Alder Blumer, M. D.—18th Annual Report Utica State Hospital for  
Insane. (1893.)

Col. Albert A. Pope.—Catalogue of Works on "Construction of Roads."  
(1892.)

The Johns Hopkins Press.—Vol. III, No. 1, 2, and 3, Johns Hopkins'  
Hospital Reports. (1892.)

Richard Dewey, M. D.—8th Biennial Report Illinois Eastern Hospital  
for Insane. (1892.)

Colorado State Medical Society.—22d Annual Convention Transactions.  
(1892.)

Warde & Bingley.—Illustration of Eva Mudge. (1892.)

W. H. Fanning, Esq.—Catalogue of Sale of Engravings. (1892.)

Selden H. Talcott, M. D.—22d Report State Insane Hospital, Middle-  
town, N. Y. (1893.)

O. J. Wilsey, M. D.—Annual Report Long Island Home. (1892.)

Fred Peterson, M. D., A. E. Kennelly.—Physiological Experiments with  
Magnets at Edison Laboratory. (1892.)

Dr. F. T. Fuller.—Reports North Carolina Insane Asylum, 1890 and  
1892.

Richard Dewey, M. D.—Pleas of Insanity in Criminal Cases. (1892.)

Work and Organization of Hospitals for Insane. (1892.) Care of the Insane by State. (1892.) Insanity Following the Keeley Treatment. (1892.)

Prof. H. Pellicani, Laboratory Medico-Legal of the University of Bologna, Italy.—Programme of the School of Medical Jurisprudence of the University of Bologna. Study of Forensic Toxicology. (1892. *La Tossicità dei Tessuti Animali*. (1892.) Same Subject (From *La Terapia Moderna*.) (1892.) *Il Concetto Della Vita Autonoma. Nel Periodo Attuale della Medicina Forense*. (1892.) *L' Ordinamento della Pratica Medico Legale*. (1892.) *Medicine and Sociology*. (1892.) *Amori di Criminale*—Nata. E. *Amore di Pazzo*. (1892.) I. Piccoli *Candidata—Alla Delinquenza* Studio del Dott. Francesco de Sarlo. (1892.)

G. Wilcy Broome, M. D.—*Ideal Surgery*. (1893.)

R. M. Suearingen, M. D.—*Annual Report as Health Officer of Texas*. (1891-2.)

I. Berrien Lindsley, M. D.—*Bulletin Tennessee State Board of Health*. (February, 1893.)

Frederick Peterson, M. D.—*Medical Notes in Egypt*. (1893.)

M. Easterly Ashton, M. D.—*Abdominal and Pelvic Operations*, (1893.)

S. Grover Burnett, M. D.—*The Diagnosis of Incipient Melancholia*. (1891.) *Pseudo Experts in Lunacy*. (1892.)

## SKETCHES OF EMINENT MEDICAL MEN AND JURISTS.

HON. MORITZ ELLINGER,

CORRESPONDING SECRETARY MEDICO-LEGAL SOCIETY.

Moritz Ellinger is a native of Furth, Germany, born in 1830. He was a student of the Talmud under Rabbi S. B. Bamberger, and of the oriental, ancient, and modern languages in his youth, as well as of the modern sciences, being greatly self educated.

In 1854 he came to this country and engaged first in the importation of rare books. He early entered political life, for which he was particularly fitted, and was nominated for Congress by the Republican party against Hon. Fernando Wood, in a strong Democratic district, where his public utterances brought him into public notice.

Although not a lawyer, nor a physician, his ripe learning and scholastic tastes led him to take a deep interest in medical jurisprudence and he united with the Medico-Legal Society in 1874, and has since occupied an active and conspicuous part in its affairs, being for most of that time a member of its Executive Committee, and for the ten years last past its Corresponding Secretary, for which his knowledge of languages peculiarly fit him. He is profoundly learned in the lore of the Talmud, and is a recognized authority on this Continent in Judaism. He has rare powers as a polemical writer, and held the editorial chair of the *Jewish Times*, and since the death of Hon. B. F. Peixotto has been editor of the *Menorah*, which he has brought into the front rank of magazines of its class.

Mr. Ellinger has been prominently identified with Hebrew benevolent societies and organizations for years. Since 1869 he has been conspicuous in the order of B'nai B'rith, and for ten years its Secretary, and is now its Corresponding Secretary.

As a public speaker he is very happy and has on many occasions appeared as a platform speaker on important topics.

His interest in forensic medicine and the Medico-Legal Society brought him into public notice as a fit selection for the office of Coroner, to which office he was twice elected, and it is due to him to say, that to him belongs the credit of revolutionizing that office and elevating its administration in the city of New York during his long service in that position.

His contributions to the Medico-Legal Society have been of a high order. Among these, "Malleus Mallificarium" and "Moral Responsibility" attracted most attention.

He is Secretary of the International Medico-Legal Congress of 1893, and will contribute a paper to that body, entitled "Anarchism from its Philosophical and Medico-Legal Aspects."

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### JOHN HOOKER PACKARD, M. A., M. D.

Prof. Packard was born in Philadelphia August 15, 1832. He was educated at the University of Pennsylvania, and holds the degrees of B. A., 1850, M. A. and M. D. since 1853. He has lately been engaged in teaching anatomy and surgery, and was acting Assistant Surgeon U. S. A. during the war. Was Consulting Surgeon to Sartelle, Haddington, and Beverly in the U. S. A. Hospitals; was Surgeon to Episcopal Hospital, 1863 to 1884, and Surgeon to Pennsylvania Hospital from 1884, and Surgeon to St. Joseph's Hospital from 1880.

He was Secretary of the College of Physicians from 1862 to 1877, and its Vice-President in 1886-'87-'88.

He is author of a translation of Montaigne's Treatise on Fractures (1859), Minor Surgery (1863), Handbook of Operative Surgery (1870), Lectures on Inflammation (1865), Articles on "Poisoned Wounds" and "Fractures" in Ashhurst's Encyclopedia of Surgery (1883), on "Fractures and Dislocations" and "Colotomy" in Keating's Cyclopedia of Diseases of Children (1889), and of many articles in various medical journals.

He is a clear and concise writer, and holds high rank as a physician in his specialty. He gives attention to medico-legal studies, and has been a corresponding member of the Medico-Legal Society of New York for years, and a contributor to the literature of that body.

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### RICHARD B. KIMBALL, LL. D.

Richard Burleigh Kimball was born in Lebanon, New Hampshire, October 11, 1816. He passed an examination for admission to Dartmouth College at the early age of 11 years. On account of his youth, however, the college authorities refused to receive him as a student until he was 13 years old, when he entered, where he graduated in 1834, at the age of 18 years. Dartmouth conferred later the degree of LL. D. upon him. He at once entered upon the study of the law, and was admitted to the Bar of New York at Waterford in 1836.

He spent a year in foreign travel, and commenced the practice of his profession at Troy, New York, under the eye of the Hon. William A. Beach, his life-long personal friend.

He shortly after removed to New York, and after a year with his brother's firm, Doe & Kimball, opened an office at 49 Wall street, where he remained in practice until about

1877, when he retired and devoted his time chiefly to literature, in which he had distinguished himself early in his career.

Mr. Kimball was a sort of connecting link between the present generation and the people who lived at the time of the American Revolution. His father was seven years old at the time of the battle of Lexington, in 1775, and his uncle served as a soldier in the Continental Army under Washington, while his maternal grandfather was the first white settler in the lower valley of the White River, in Vermont. Through these connections he came into the possession of a great deal of interesting material, obtained from eye witnesses, regarding the early struggle for American liberty.

He was a great traveler, and in early life spent about as much time in Europe as in America. It was his good fortune during his residences abroad to witness many important events in European history, of which, in after life, he made a careful record. He saw the political complexion of France change several times.

Mr. Kimball crossed the ocean about thirty times. His first trip was made in 1836, and after that he crossed nearly every year until 1880.

Special interest attached to him because he had been on terms of close acquaintanceship with many of the prominent authors and statesmen of the present century. He knew Dickens intimately, and he had met Irving, Lamartine, Thackeray, Bulwer, Gladstone, Hugo, Browning, Tennyson, and a host of others. Of the statesmen whom he knew on both sides of the ocean, his recollections were keen. The list included Seward, Webster, Clay, Motley, Lord Palmerston, the elder Peel, Brougham, Charles O'Connell, and many others. He wrote of the peculiar traits and qualifications of many of these writers and statesmen, most charmingly, in a series of articles which appeared in *The Times* and other



journals during recent years. His memory was wonderfully acute, and his style was clear and crisp.

Early in the fifties he founded the town of Kimball, Texas, and built part of the first railroad constructed in that State. The road ran from Galveston to Houston. He served as its President from 1854 to 1860, when the Civil War forced him to withdraw.

Though achieving early a considerable literary reputation, Mr. Kimball did not embrace authorship as a profession until rather late in life.

His first literary work which attracted attention was the production of a metaphysical novel under the title of "St. Leger, or The Threads of Life." This and several others of his books were translated into French and German and had a considerable sale. Afterward he wrote "Cuba and the Cubans," "Romance of Student Life Abroad," "Undercurrents of Wall Street," "Was He Successful?" "The Prince of Kashua," "Henry Powers, Banker," "To-Day," "In the Tropics," and other novels, stories, essays, and tales of travel. In 1853 he was editor of the "*Knickerbocker GALLERY*," and since his retirement from the bar he was a constant contributor to American journals and magazines, notably the *New York Times*, *Frank Leslie's*, and *Mrs. Frank Leslie's Popular Magazine*. Much of this labor will be reproduced in a volume he completed only ten days before his death, entitled, "Half a Century of Recollections."

Mr. Kimball was one of the most brilliant conversationalists among the literary men of New York. He had a wonderful charm of manner, and was inimitable as a *raconteur*.

He was President of the Dartmouth College Alumni Association in New York, a member of the Board of Managers of the New York Infant Asylum for years, and, until his last visit abroad, its Secretary.

For many years he was an active and enthusiastic member of the Medico-Legal Society, and for at least nine years was a member of the Executive Committee, and a conspicuous figure at its annual banquets. The warmest personal friendship existed between him and the writer of this sketch, extending for nearly thirty years.

There is no recent portrait of Mr. Kimball in the possession of his family. That which accompanies this sketch is from Elliot's portrait, painted prior to 1853 and in the forties.

He died on the 28th day of December, 1892, in the city of New York.

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### ALBERT BACH, ESQ.

Albert Bach was born in the city of New York, December 28, 1854. His early education was in the public schools of that city, where he fitted for college at an early age.

He is a graduate of the College of the City of New York, taking his degree, with honors, in 1872, at the age of 18 years, and capturing the senior prize for elocution.

He commenced at once the study of the law and entered the Law School of Columbia, from which he graduated in 1874, at the age of 20, which gave him admission to the bar of New York before he attained his majority.

He at once entered upon the practice of his profession in the city of New York, where he has since resided.

Mr. Bach has always taken an interest in medical jurisprudence and united with the Medico-Legal Society some years since. In January, 1886, he was elected Secretary of that body, which position he held until elected Vice-President of the Society in 1890, to which office he has been annually re-elected since that date.

He has contributed several important papers to the literature of forensic medicine, which have attracted attention and

been widely noticed. He is the author of "Lunacy, Real and Fictitious," "Medico-Legal Aspect of Privileged Communications," and other papers of interest.

He will read a paper at the International Medico-Legal Congress of 1893 on "The True Status of Expert Evidence."

He is an accomplished linguist and has been of great service to the labors of the Medico-Legal Society by his translation from the German writers.

Mr. Bach is a close student, a fluent, ready, and eloquent speaker. He is very successful in his practice, and occupies an enviable position at the bar of New York.

He is frequently retained as counsel in important cases.

He took a very important part as counsel in the interest of those whom he believed to be improperly restrained in asylums for the insane, and was very successful in his efforts in this direction.

He took an active interest in the success of the Democratic party in the canvass of 1892. Attended the National Convention at Chicago and was prominent upon the stump in the campaign.

He has a charming wife and an interesting family, and is the center of a social circle of personal friends, to whom he has greatly endeared himself.

He is one of the rising men of his profession and has a brilliant career before him.

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### BETTINI DI MOISE, M. D.

Count Bettini di Moise is a native of Italy, and was born at Cherso, the principal Island of the Dalmatian Archipelago.

He is a lineal descendant of the distinguished family whose name he bears, which is of Hungarian nationality. The ancestor emigrated in 1388 to Segua, and from thence to Cherso

in A. D. 1400, where his descendants have occupied civil, military, and political distinction and have formed an influential part of the patrician nobility of that island. The branch from which Dr. di Moise is descended were decorated with that nobility of the city of Ossero for military service which was ratified by the Decree of the Councils and by the Venetian Senate, through which he takes in Italy the title of Count. He graduated at the University of Padua in Italy in 1876, and emigrated and settled in the City of New York, where he has a large and lucrative practice, especially among the American-Italian residents.

Dr. Di Moise has given especial attention to microscopy and bacteriology, in which he is a specialist of high attainments, and it was upon his motion that the office of Bacteriologist of the Medico-Legal Society was created. He has made especial sketches in diseases of a zymotic nature, and may be regarded as a specialist in typhus fever, malaria, pneumonia, phthisis, and kindred diseases.

When the discovery of Prof. Koch was announced, Dr. di Moise was selected by the *Progresso Italo-Americano* (a journal that has taken deep interest in the question) to visit Berlin, where he spent some months in the study of the subject, under Prof. Koch's instruction, and which he has, since his return, applied in his practice, but without the hoped-for results in many cases.

Dr. Di Moise takes a deep interest in medical jurisprudence, and is an active member of the Medico-Legal Society. He has been for some years a member of its Executive Committee, and holds the office of Librarian in that body.

He is a contributor to the literature of that branch of science, in which he takes an interest, and his paper, "The Koch Lymph in Public Medicine," was published in June, 1891, in the MEDICO-LEGAL JOURNAL.

## FRANK H. INGRAM, M. D.

Frank Harold Ingram was born in Logansport, Ind., in 1860. His father, now deceased, was a banker. He came to New York in 1879 and graduated from the Bellevue Hospital Medical College in 1883. He was appointed interne at the Blackwell's Island Insane Asylum, which position he resigned to become assistant physician at Brigham Hall, a private retreat for persons of unsound mind at Canandaigua, N. Y. He was subsequently recalled to Blackwell's Island and appointed Assistant Superintendent of the women's department of the insane asylum there. The demands of his private practice caused him to resign this position some four years ago.

He was the visiting physician at the Hospital for Nervous Diseases and President of the Board of Pathologists of the City Asylums for the Insane.

He was a member of the Medico-Legal Society, and had served as Assistant Secretary of that body, and in its Board of Trustees. He was one of the Secretaries of the International Medico-Legal Congress of 1889, held in the city of New York, and was one of the Secretaries of that Congress announced to be held in Chicago in August next, and was to read a paper before that body.

Dr. Ingram was in charge of the City Insane Asylum, on Blackwell's Island, when Nelly Bly paid it her famous visit, and he refused to accept a diagnosis of her case as belonging to any of the recognized types of insanity. He was for a considerable period lecturer on nervous diseases at the Polyclinic Post-Graduate School.

Dr. Ingram was, although a young man, one of the leading experts in cases of insanity in this city, and his opinion was held in high estimation in the courts. He was an expert in the Lane and Field cases, and was pronounced in his

opinion that Field was of unsound mind. He also pronounced Sylvester F. Wilson insane. No man of his years had a larger practical or clinical experience in cases of insanity in this country.

Questioned in court in a case as to the number of cases of insanity he had seen, the answer was: "It would be impossible to say how many cases I have seen, but I can say that I have carefully studied over eight thousand cases of lunacy"—and his testimony was not discredited.

He was a contributor to the literature of the Medico-Legal Society.

His contributions to the *New York World*, in the woman's page—Under a Doctor's Advice—was the widest read of his recent publications. That journal, in an extended notice of his death, which occurred on March 17, 1893, of angina pectoris, said of him:

In his death the patrons of *The World* have lost a skilled and sensible medical adviser, and the thousands who profited by his counsel will doubtless feel a sense of personal loss for the man but few of them could ever have seen. As he had been repeatedly acknowledged by the grateful recipients of his free prescription, in *The World*, Dr. Ingram had the gift of catching the point of an inquiry and of putting his advice in the briefest and most practical form.

He not only had a good knowledge of medicine, but he knew human nature as well. While his private practice was not confined to any special class of diseases, his reputation in the medical profession was principally based upon his skill in nervous and brain diseases.

Personally he was one of the most lovable of men, utterly unselfish and generous to a fault. His affability and remarkable memory for names made him socially popular both with the members of his own profession and all who met him.

The intelligence of his death will be received with profound regret by many friends, not only in the Medico-Legal Society, but in the city and country.

## H. E. ALLISON, M. D.

Dr. H. E. Allison is a native of New Hampshire, and was born December 1, 1851, at Concord, where his youth was spent. He was educated at the public schools and fitted for college at Kimball Union Academy, Meriden, N. H.

He entered Dartmouth and graduated A. B. in 1875, and commenced as the teacher of the High School at Hillsborough Bridge, pursuing medical studies.

He graduated as M. D. at Dartmouth Medical College in 1878, and was, same year, appointed assistant physician at Willard's Asylum, New York, where his career as an alienist commenced.

He remained at Willard's until Spring of 1883, when he took a course of study at the New York Polyclinic, and commenced the practice of his profession at Waterloo, New York. In August, 1884, he was reappointed first assistant physician at Willard's Asylum, where he continued since until July, 1889, when he was appointed Medical Superintendent of the New York State Asylum for Insane Criminals at Auburn, N. Y.

He was named a member of the commission to erect the new Asylum for Insane Convicts at Mattewan, which was opened April, 1892, and now known as the Mattewan State Hospital, of which Dr. Allison is now Medical Superintendent.

Dr. Allison was married in October, 1884, to Miss Anna M. DePay, of Kingston, and their union has been blessed with three children.

He was President of the Seneca County Medical Society and of the County Medical Association of that County while resident at Willard, and was a member of the Cayuga County Medical Association. He is also a member of the American Medico-Psychological Association and a Corresponding Member of the Medico-Legal Society.

He is a valuable contributor to medical literature in his specialty, and his papers on criminality and responsibility have attracted attention, notably on "Motives Which Govern the Criminal Acts of the Insane" and "The Insane Criminal."

He stands high as an alienist, and has a high career before him in his present position.

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### R. HARVEY REED, M. D.

R. Harvey Reed was born of Scotch-Irish parentage in 1851, at Dalton, Wayne County, Ohio. From the age of two years he was taken care of by an uncle, who lived on a farm near this village, until after he was of age.

His primary education was obtained in an old-fashioned country school-house; from that he attended the high school at the village nearby his adopted home, and subsequently attended Mt. Union College, where, for want of means, he was not only obliged to board himself, but be content with a select course.

Between the age of 17 and 18 he taught his first term of school, for which he received \$20 per month and walked four miles, night and morning, and did the chores at his uncle's for his board and washing, and, in addition, started the fires and swept the school-house in order to save his money to send him to college. He was afterwards elected Superintendent of the high school at East Greenville, Ohio, where he taught his last term of school.

He commenced reading medicine at Alliance, Ohio, while still attending college, which was done without the knowledge of his friends, who opposed his studying for any profession; but, notwithstanding, he subsequently continued his preparatory studies until he was prepared for the medical college. He entered the Medical Department of the University of Pennsylvania in Philadelphia. After his first



course of lectures, he was chosen by the faculty, without his previous knowledge, Resident Physician of the Mission Hospital, situated on Eighth street, Philadelphia, Pa. During his stay in that institution he attended a part of his second course of lectures.

After the expiration of his term in the hospital, he completed his second course of lectures and returned home, where he continued his medical studies while not engaged in harvesting and other similar past-times. In the following fall he returned to the University, and completed his medical studies the subsequent spring, and graduated with the centennial class, being one of 13 out of a class of 124 who graduated with honors. In addition he was unanimously elected Secretary of the Executive Committee of his class.

Shortly after his graduation he was appointed Surgeon of the Delaware Copper Mining Company, of Lake Superior, where he spent two years, during which time he returned to his native State and married Miss Melissa A. Stinson, which marriage was blessed by four sons, two of whom died in infancy, and two, Gail and Penrose, are still living.

While on Lake Superior, Dr. Reed was appointed by Dr. Franklin P. Hough, of New York, to botanize and report on the flora of Keweenaw Point, Michigan, for the "Forestry Report," published by the government in 1877.

After resigning his position on Lake Superior, on account of the rigorous climate, the Doctor returned to Ohio and located at West Salem, and entered into partnership with a physician of that village, where he practiced his profession until the fall of 1880, when he removed to Mansfield, Ohio, where he has since resided.

Shortly after locating in Mansfield he was appointed Local Surgeon of the Baltimore and Ohio Railroad, and in 1884 he was appointed Company Surgeon of the same, which position he has held ever since.

In 1883 the Doctor was appointed Physician of the Children's Home of Richland County, which position he resigned some two years ago. In 1884 he was appointed Surgeon of the Pennsylvania Railroad Company, which position he also resigned in 1887. The same year he was appointed Health Officer of the City of Mansfield, which position he has held ever since. The Doctor is a member of the American Medical Association, the National Association of Railway Surgeons (of the latter he has held the position of Treasurer ever since its organization), the American Public Health Association, the American Climatological Association, the British Medical Association, the Tri-State Sanitary Association (of which he was President), the Ohio State Sanitary Association (which he served as Secretary for seven consecutive years), the International Medical Congress (of which he was Vice-President of the section of public and international hygiene during the ninth congress of the same), the Ohio State Medical Society, and an honorary member of the D. Hayes Agnew Surgical Society, the Texas State Medical Association, the Texas State Sanitary Association, is now President of the North Central Ohio Medical Society, and a corresponding member of the Medico-Legal Society of New York. He is editor of the Department of Railway Surgery on the Railway Age.

Besides being a member of the above scientific associations and societies, he is a member of several fraternal bodies, among which are various Masonic organizations, being a 32d degree Mason, and also an Elk.

The Doctor has been a regular literary contributor to nearly all the scientific organizations of which he is a member, besides contributing to several national, as well as State, journals, which has gained for him a wide acquaintance in professional circles in this country, as well as a limited acquaintance in Europe.

In 1886 the Doctor wrote the original bill, and assisted in carrying it through both houses of the Ohio legislature, creating the present State Board of Health. When the bill was passed, there was scarcely a dozen local Boards of Health in the State; at present there is scarcely a town of 500 inhabitants or over that is without such a board.

The Doctor has always taken a deep interest in the promotion of sanitary reforms, on the ground that it is more philanthropic to be able to prevent disease than it is to cure it.

In addition to the general practice of medicine, he has always given special attention to surgery, in which field his reputation as a skilled operator has long been established.

In 1891 he was elected to the Chair of Principles and Practice of Surgery and Clinic Surgery in the Ohio Medical University, at Columbus, Ohio.

He will contribute a paper to the International Medico-Legal Congress of 1893, entitled, "Medical and Surgical Expert Testimony; 1. Its Par Value; 2. Its Present Value; 3. How to Place It at Par."

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#### F. C. HOYT, M. D.

Frank C. Hoyt, M. D., was born in Denver, Col., in 1859. He was left an orphan at an early age, and was raised by distant relatives. He removed to St. Joseph in 1873, and by his own labor fitted himself for professional life by attending the St. Joseph High school. He afterward took the degree of doctor of medicine at the College of Physicians and Surgeons at St. Joseph (now the ENSWORTH Medical College), and later was given his degree by the medical department of the University of Louisville, Ky. He holds a special certificate for pathological work from the Jefferson Medical College of Philadelphia. Immediately after graduating at the St. Joseph institution he was made demon-

strator of anatomy and was soon afterward promoted to the full professorship of physiology and hygiene, which chair he filled until his entrance upon hospital work. For two terms he was health officer of St. Joseph, and as such had full charge of the city hospital. In 1887 he was appointed pathologist and assistant physician to Asylum Number 2 of St. Joseph, which position he held until his selection as Superintendent at Clarinda, Iowa. He was the founder, and for eight years the editor, of the *St. Joseph Medical Herald*, and is at present associate editor of the *St. Louis Medical Fortnightly*. He is the author of a brochure on "Pachymeningitis Hemorrhagica Interna Chronica," which contains an original investigation highly creditable to the author. He is a member of the American Medico-Physiological Society, of the Mississippi Valley Medical Society, of the Medico-Legal Society of New York, and the International Medico-Legal Congress, etc., etc.

Dr. Hoyt was married nine years ago to a daughter of Dr. H. C. Garner, of Kansas City, and has three children. He is a member of the Presbyterian Church.

He stands deservedly high in his profession, and is already recognized as an alienist of excellent attainments. He is the Medical Superintendent of the Iowa State Hospital for the Insane at Clarinda, Iowa.

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#### A. H. SIMONTON, B. S., M. D.

Albert Henry Simonton is a native of Portland, Maine, born May 24, 1846.

He received his first degree in Maine in 1867.

He studied medicine in Rush Medical College, Chicago, in 1868-'69, after which he graduated from the Law School of the University of Chicago in 1870, and was admitted to

the bar in September, 1870, in Springfield, Ill., and to the United States Courts in Chicago in 1872.

He served one term as Judge of Municipal Court, Stock Yards District, Chicago, and one term as Judge of Probate in Dakota.

Dr. Simonton was stricken with mountain fever in 1880, went to South America for his health, which he fully recovered, and returned to the United States in 1881. Having tired of "perpetuating the quarrels of others," as he calls the practice of law, he began the practice of medicine.

He found that the advance in medicine and surgery was much greater than he supposed, notwithstanding his efforts to keep read up. Wishing to become a specialist, he gave up practice in 1891, went to Cincinnati, Ohio, and devoted himself to study and clinical work for eighteen months, then located in that city, where he recently opened a private hospital.

Dr. Simonton is actively engaged in religious and philanthropic work in Cincinnati.

He is actively connected with the "Out Obstetrical Clinic" of the Cincinnati College of Medicine and Surgery, which is rapidly ousting the "midwives" and lessening the mortality of infants in that city.

Under the auspices of the ladies of the First Baptist Church, he established the "Silent Workers' Free Clinic for Diseases of Women," for the benefit of working women, and devotes personal attention to this work.

Dr. Simonton has a characteristic thoroughness and promptness which assures his success in his new home.

Dr. Simonton takes great interest in medico-legal studies, and is preparing to lecture on medical jurisprudence. His paper on Abdominal Surgery, to be read before the International Medico-Legal Congress of 1893, gives an account of some original work and methods not before published.

He is of agreeable manners, a fluent and eloquent speaker, and thoroughly educated in both professions. He is eminently fitted for the study of forensic medicine.

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### ALFRED E. REGENSBURGER, M. D.

The subject of this sketch, Dr. Alfred E. Regensburger, first saw the light of day, in the early part of the fifties, in the City of New York. He received his education in his native city at the best private schools, from private tutors, and at the University of the City of New York. Having completed his preliminary training, it was thought best that he should enter upon the study of medicine, so that he might, in time, lighten the professional cares of his father, Dr. Joseph Regensburger, a prominent physician, enjoying a large and lucrative practice among the French and German population. With that object in view he matriculated at the College of Physicians and Surgeons of New York City. Before he had completed his professional studies his father died. However, he continued and finished the course at and graduated as Doctor-in-Medicine from that institution in 1872, before he had attained his majority. Shortly after having obtained his professional degree, he was appointed one of the Attending Physicians to the North-Western Dispensary, which position he filled until he left for California. Being desirous of seeing something of the world, he embarked, in the beginning of 1874, for San Francisco, going by the way of the Isthmus of Panama, arriving at his destination a few weeks later.

He at once began the practice of his profession in his new home. The calling into life of the San Francisco Free Dispensary shortly after his arrival in San Francisco, although not as long-lived as its projectors and friends desired, was largely due to his efforts. Always having cherished the hope

to travel and study in Europe, he finally did so and remained there during 1877 and 1878, his intention being also to establish himself in London or Paris. This was frustrated by an accident befalling his mother, from which she recovered, but which was the cause of his returning to San Francisco. While in Europe he visited the principal hospitals and medical schools of England, France, and Germany, giving particular attention to his specialty, dermatology. During his stay in these countries he made the most of his time, which was rendered easy by his thorough knowledge of those languages, reading, writing, and speaking fluently all three. The Doctor has never held any political or public position, contenting himself with giving his attention to the practice of his specialty, in which he was the pioneer on this coast, and which has grown to such an extent as to almost wholly monopolize his time.

He is a member of numerous medical and scientific societies, of which may be mentioned the California Academy of Medicine, New York Medico-Legal Society, which, by the way, was the first scientific body with which he affiliated, and in which he has never ceased to take an interest, always remaining true to his first love, and the San Francisco Bacteriological Society, of which he was a charter member, and is its Vice-President. The medical journals and the transactions of the various medical and other scientific associations of which he is a member contain frequently papers from his pen.

While thoroughly occupied with his profession, he has found leisure to interest himself in the cause of cremation, of which he is an ardent supporter and an enthusiastic advocate. He was one of the first shareholders in the San Francisco Cremation Company served two terms as a Director, and wrote an article entitled, "Earth Burial and Cremation Considered from a Sanitary Standpoint," which

appeared in a pamphlet issued by the aforesaid corporation, and which was highly commended.

Shorthand has also found a votary in him, believing, as he does, with Sir Dyce Duckworth, of Great Britain, and Dr. Shattuck, of our own country, that shorthand should form a part of the preliminary education of a medical student. He has never allowed the opportunity to pass without urging the desirability of the acquisition of this art upon all those who desire to qualify themselves for the study of medicine and who ask his advice concerning the same.

Tenacious of his own opinions, though ever willing to be convinced by argument and facts to the contrary, he is more than tolerant of those of others. Always courteous and polite, it has been especially the rule of his life to be so to the younger members of the profession, for whom he never fails to have a word of good cheer and encouragement.

The Doctor is a bachelor; intends to remain one; has been wedded so long to his profession that he would consider it bigamy if he divided his affections.

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### S. GROVER BURNETT, A. M., M. D.

S. Grover Burnett, M. D., is a grandson of the first Stephen Grover Burnett, who was active in the war of 1812-'14, and who was given honorary command of the division firing the salute of peace on Governor's Island, N. Y. He was born June 3, 1862, at Terre Haute, Ind. At the age of nine years his father took him to the frontier to make a farmer of him. For three years he lived among the Pottawatomie Indians, attending a mixed school, of Indian and white children, in the Winter season.

He witnessed the capture of the Cherokee Indians of the North-West in their attempt to join the Kaws and make war against the whites, caused by the removal of the latter to the



Indian reservation. After their capture he acted as guide for a committee of the "braves" who were allowed to interview the chief of the local tribe, whom they wished to intercede for them.

When 13 years of age he assisted his father in opening up a farm on the Kaw Reserve, and the same year declared his independence and started for the range to educate himself. In the conflicts incident to his trip he received accidental gunshot wounds, one cutting the palm of the left hand, the other the right thigh. A third shot, not accidental, burnt him on the right side of head and face, resulted in a hand-to-hand encounter, and a fourth accidental shot almost severed his right arm from his body.

He speculated in cattle and paid the expenses of his education in the district and high school, and thence to college, finishing up at the New York University. In February, 1885, he graduated in medicine at the Kansas City Medical College. Was entered for chemical work at Bellevue Hospital, New York. Afterward graduated from the Medical Department of the University of New York City, on March 6, 1886. Four days later he was appointed to fill the position of Assistant Superintendent of the Amityville Asylum, N. Y., where he remained till his resignation, 1889, to enter practice in New York City. He was then appointed a member of the corps of physicians, inaugurated by the *New York Evening World*, for poor children, which did noble work in the dense tenement districts.

During the Winter of 1889, he attended the New York Post-Graduate Medical College. In the Spring of 1890 he was made clinical lecturer on mental and nervous diseases in the Kansas City Medical College, and removed to that city, and was subsequently made Professor of that college, which Chair he now holds. He has a good practice and de-

votes his entire time to his specialty—Psychiatry, Neurology, and Inebriety.

Dr. Burnett is a frequent contributor to the medical literature of the day. As a medical expert in cases of insanity he is recognized by the legal and medical professions. He is a member of the New York Medico-Legal Society, International Medico-Legal Congress, Associate Member New York Post-Graduate Clinical Society, Kansas City Academy of Medicine, and the Medical Society of the Missouri Valley.

He is consulting Neurologist to the Missouri Pacific, K. C. O. & S., K. C. & Ft. S., K. C. & Ind. Air-line, and K. C. Belt Railway's Hospital Departments, and attending Neurologist to All Saint's Hospital of Kansas City, Mo.

He will contribute a paper to the International Medico-Legal Congress.

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### JAMES D. PLUNKET, M. D.

Dr. James Dace Plunket is a native of Tennessee, and was born in Franklin, Williamson County, of that State, upon August 20, 1839. He was given a thorough education in the Academy, coupled with unusually superior home training by a mother possessed of rare acquirements and natural gifts. After a year of careful study of medicine, he, at the age of twenty-one, entered the office of Professor Joseph Leidy, of Philadelphia, as his pupil, and at the end of three years, 1863, graduated from the Medical Department of the University of Pennsylvania with high honors.

He was a surgeon in the Confederate Army, and began the practice of medicine in Nashville, Tennessee, in June, 1865.

He was a member of the American Medical Association, and was Chairman of its section on State Medicine in 1890; a member of the American Association for the Advancement

of Science, and was Chairman of its Committee on Meteorology in 1878; also of the State Medical Society of Tennessee, the Nashville Academy of Medicine, the American Public Health Association, and a member of its Executive Committee, 1891-3; of the State Board of Health of Tennessee, and its President from 1877 to 1893. He is a member of the International Medico-Legal Congress of 1893.

During the past thirty years his life and pen have been wholly and actively spent in furthering the aims of medicine as a science or art; especially is the latter true regarding the modern field of "preventive medicine," in which he has been a recognized authority for the past quarter of a century.

Among his contributions have been: "Ozone and Its Relations to the Public Health;" "Bovine Tuberculosis, a Fruitful Source of Human Disease and Death;" "Yellow Fever in Tennessee During the Summer of 1879;" "Recreation, Its Importance and Its Neglect;" "Vital Statistics in Tennessee, &c., &c., &c., &c.;" together with many other articles scattered here and there through the medical and secular press of the State.

Dr. Plunket is actively engaged in the general practice of medicine in Nashville, and enjoys an enviable reputation for skill and success; he is one of the most prominent members of the profession in Tennessee or the Southwest. In appearance he is of medium height, and erect, and of commanding mien—strongly built, and well fitted for the active duties of an active life—is gentle, frank, and retiring in manner, yet, if the necessity requires, is bold and essentially progressive.

# THE SUPREME COURT OF NEW BRUNSWICK.

BY HON. A. L. PALMER, ASSOCIATE JUSTICE AND JUDGE IN EQUITY  
OF THAT BENCH.

In presenting this sketch of the history of the Supreme Court of New Brunswick I have thought it fitting that I should first explain the history of the formation of the constitution of that Province, and in doing so it will be profitable to pass in review or to state what law was in force there at the time of the first formation of the Court. The laws then in force were such of the common and statute laws of England as were in force in England at the time of the settlement of the Province, so far as the same were applicable to the condition and circumstances of the people of New Brunswick.

New Brunswick is a part of what was Acadia, which was discovered by Jacques Cartier, a Frenchman, in June, 1654, and belonged to France, by virtue of such discovery, who ceded it to Great Britain by the treaty of Utrecht. Acadia consisted of the country bounded northerly by Bay Chaleur, westerly by the Province of Quebec and State of Maine, southerly by the Atlantic Ocean, and easterly by the Gulf of St. Lawrence. It was first formed into a Province under the name of Nova Scotia, and in 1784 Thomas Carleton was appointed Governor General and Commander in Chief of all the British Provinces in North America, and was, by letters patent, authorized and directed to form a part of the Province of Nova Scotia into the separate Province of New Brunswick, with full power to constitute and establish Courts

of Judicature within the Province so to be formed. Accordingly he, on the 27th November, 1784, formed the present Province of New Brunswick, which is all that part of Acadia bounded: northerly, by the Bay Chaleur, aforesaid; westerly, by the Province of Quebec and the State of Maine; southerly, by the Bay of Fundy, and easterly by the said Gulf of St. Lawrence, and at the same time constituted and established the Supreme Court of New Brunswick, with four judges, and he appointed the Hon. George Duncan Ludlow Chief Justice and made James Putnam, Isaac Allen, and Josiah Upham, Assistant Judges. At first such Court was given all the powers that the Courts of the King's Bench, Common Pleas, and Exchequer Court had in England, but no jurisdiction in Equity, which was vested in the Lieutenant-Governor of the Province as Chancellor; but afterwards Equity jurisdiction was given to each of the judges of the Court, from whose decision the said Supreme Court was given appellate jurisdiction.

Prior to the cession of Canada to Great Britain by the treaty of Utrecht, which was in 1713, there was little or no organized government therein. Whatever authority was exercised was by military commanders of fortified places, such as Annapolis, Halifax, and La Tour, now Saint John. Those places were alternately held by the French and British. When held by the French, such portion of the law of France as was applicable to the condition of the country was in force therein, and when by England, the country was governed by such laws of England as were applicable to the condition of the country, but there were no organized civil Courts until Acadia was formed into the Province of Nova Scotia, about the year 1730. Sometime afterwards the present Supreme Court of Nova Scotia was established, which had jurisdiction over New Brunswick, as part of that

Province, until the Province of New Brunswick was established as a separate Province, as I have before stated.

As to the jurisdiction of the present Supreme Court of New Brunswick, that Court originally had jurisdiction in all civil common law and also criminal cases, and appellate jurisdiction in causes tried at *Nisi Prius* and Courts of Oyer and Terminer, the Courts which tried all criminal and civil cases that are brought before the Court, and also from the decisions of the County Courts, the judges sitting on appeal from their own decisions except in Equity. The decisions of the Supreme Court are final on all appeals from the County Courts and Courts of inferior civil jurisdiction, but not in cases that originated in the Supreme Court itself; from such there is an appeal either to the Supreme Court of Canada, at Ottawa, or to the Judicial Committee of the Privy Council, which sits in London, England.

At first this Court held three terms or sittings per year at Fredericton, which was afterwards altered to four, and the number of Judges were increased first to five and afterwards to six, which is the present number.

Before the Confederation of the Province of New Brunswick with the rest of the present Provinces of Canada the Judges of the Court received their appointment from the Sovereign of Great Britain, but after that time they were appointed by the Federal Government of Canada, and they hold their office during life and good behavior. This Court, since its establishment, has been presided over by eight Chief Justices, twenty-five Puisne Judges have sat therein, and six reporters have discharged the duties of that office. Twenty-eight volumes of reports represent the result of the labors of such Court. The names of such Chief Justices were George Duncan Indlow, Jonathan Bliss, John Saunders, Ward Chipman, James Carter, Robert Parker, William Johnston Ritchie, and John Campbell Allen; and

the names of such Assistant Judges are James Putnam (1790), Isaac Allen (1790), Joshua Upham (1790), John Saunders (afterward C. J., 1790), Edward Winslow (1807), Ward Chipman, Sr., (afterwards C. J., 1809), John Murray Bliss (1816), Edward I. Jarvis (1821 to 1823), William Botsford (1823), Sir James Carter (afterward C. J., 1834), Robert Parker (afterward C. J., 1834), George Frederick Street (1845), Lemuel Allen Wilnot, Neville Parker, William Johnston Ritchie (the present Chief Justice of Canada, 1855), John Campbell Allen (1865), John Wesley Weldon (1865), Charles Fisher (1868), Andrew Rainsford Wetmore (1870), Charles Duff (1875), Acalus Lockwood Palmer (1879); Judge in Equity, Additional Judge, George E. King (1880), John J. Fraser (1882), William Henry Tuck (1885), and Daniel L. Hanington (1892).

The ancestor of Chief Justice Ludlow was Gabriel Ludlow, born at Castle Alley, in England, in 1663. He went to New York in 1694, and in 1697 married Sarah Harrison, a daughter of the Rev. Joseph Harrison, D. D., the first Church of England clergyman in New York. For many years he was Clerk of the Assembly in the Colony of New York. His son, Gabriel, was a wealthy merchant of New York, and married Frances Duncan, by whom he had his sons, Gabriel D. and George Duncan. The latter began life as an apothecary in New York, which he left and studied law. In 1758 he married Frances Duncan. He was successful at the bar, and in the year 1766 was appointed by Governor Calder to a seat in the Council, and in 1767 was appointed one of the Judges of the Supreme Court of New York. In 1778 the Chief Justice of the Supreme Court of New York died, and the office was given to William Smith, who was Ludlow's junior. Judge Ludlow then resigned his seat on the bench. He was a very influential man, and to conciliate him he was given the office of Master of the Rolls,

together with the office of Superintendent of Police on Long Island. As those positions were very much more lucrative than the office of Chief Justice, he accepted them. His conduct in the latter office was severely criticized by Jones, a Judge of the Supreme Court, in his history of New York.

George Duncan Ludlow continued Chief Justice of New Brunswick until 1808, when he died, and the Hon. Jonathan Bliss was appointed in his stead, who continued until 1822, when the Hon. John Saunders was appointed, who continued till 1834, when the Hon. Ward Chipman was appointed, who continued till 1851, when James Carter was appointed, who continued till 1865(9), when Robert Parker was appointed, who died the same year, and in that year William Johnston Ritchie was appointed, who continued until he was appointed to the Supreme Court of Canada in 1875, when the present Chief Justice, Sir John Campbell Allen, was appointed.

The first Supreme Court sat in St. John, and continued to do so until the legislative sessions were ordered to be held in Fredericton, in 1788. Here the court sittings were then also held, in the old court house, until the completion of the Province buildings, the corner-stone of which was laid by Lieut.-Gov. Carleton in 1800. The present rooms of the court, together with the law library, are located in the present parliament buildings.

The table around which the first Executive Council of New Brunswick gathered still exists and is kept in the private room of the Supreme Court Judges, in the present parliament block. It was brought from New York, where it had been used either in the council chamber or that of the Supreme Court. The top, in which there are twelve drawers coming to a point in the center, revolves on the box-like support which takes the place of legs.

The people of the Province of New Brunswick have had, from the beginning of its history, profound confidence in the



integrity, ability, and impartiality of the judiciary. The Judges are entirely removed from the turmoil and fever of political strife, and in no sense dependent upon the fluctuations of party or of policy, and the members of the bench have uniformly devoted themselves fearlessly and in the most conscientious manner to the duties of their high office. Selected for the position because of eminent legal attainments, each member has aimed to sustain the dignity and increase the prestige of the courts.

Prior to the union of 1867 of the British North American Provinces, Judges were appointed by the Crown for life ; since that union, by the Government of the Dominion of Canada. Now, and since the union, at the end of fifteen years' service, or sooner, if incapacitated, Judges can retire on a pension.

Before the union the salary of the Chief Justice was \$3,000, and Associates, \$2,400. The present salaries are to the Chief Justice, \$5,000, and to the Associates, \$4,000. The salary of the Chief Justice of the Supreme Court of the Dominion of Canada is now \$8,000 per annum.

The Supreme and Exchequer Court of Canada was created by act of the Federal Parliament of Canada, passed in the year 1875, and consisted of one Chief Justice and five Puisne or Associate Judges, the first of whom was William Buell Richards, C. J.; William Johnstone Ritchie, Samuel Henry Strong, Jean Thomas Taschereau, Telesphore Fournier, and William Alexander Henry, J. J. In 1879 Judge Richards resigned, and the senior Puisne Judge, William Johnstone Ritchie, was appointed Chief Justice, and John Wellington Gwynne was appointed Puisne Judge in his place. In that year Henri Elizear Taschereau was appointed in the place of Jean T. Taschereau, and in the year 1878 William A. Henry died and Christopher Salmon Patterson was appointed in his stead, and in 1892 Sir William Ritchie died

and Judge Strong was appointed Chief Justice, and Robert Sedgewick was appointed Puisne Judge, so that the present Judges of the Court are Samuel Henry Strong, C. J.; Telesphore Fournier, Henri Elezeur Taschereau, John Wellington Gwynne, Christopher Salmon Patterson, and Robert Sedgewick, J. J.

The following have been Reporters of the Supreme Court of New Brunswick :

Ward Chipman, 1 Vol., 1825 to 1827.

George F. Berton, 1 Vol., 1835 to 1839.

David S. Kerr, 3 Vols., 1839 to 1848.

John C. Allen, 6 Vols., 1848 to 1866.

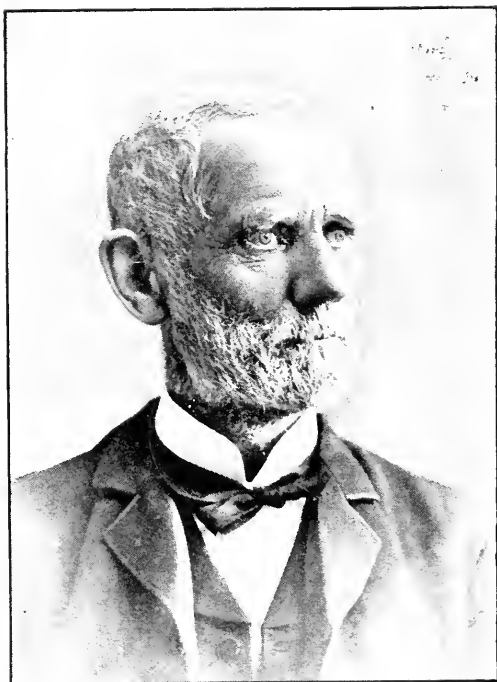
James Hansay, 2 Vols., 1867 to 1871.

William J. Pugsley, 3 Vols., 1872 to 1876.

William J. Prylsay and George W. Burbidge, 5 Vols., 1877 to 1883.

Arthur J. Trueman, present reporter, 5 Vols., 1883 to date.





HON. A. L. PALMER,  
Equity Judge Supreme Court of New Brunswick.

## HON. ACALUS L. PALMER.

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EQUITY JUDGE SUPREME COURT OF NEW BRUNSWICK.

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Acalus Lockwood Palmer, Equity Judge of the Supreme Court of New Brunswick, as a jurist and as a public man, has long been a leading figure in his native Province, and has won far more than a Provincial reputation.

When the War of the Revolution of 1776, between the American Colonies and England, broke out, Gideon Palmer was living on his estate in Westchester, New York. In that struggle he remained loyal to the English Crown and lost all his estate.

When peace came he emigrated to New Brunswick with the Loyalists, where he was appointed Coroner by Governor Carleton for the County of Westmorland.

His son, Phillip Palmer, for many years represented that county in the Legislature of New Brunswick, and was the father of Judge Palmer, now upon the Supreme Bench of New Brunswick.

Judge Palmer was born in 1820 at Sackville, where he received his education.

He studied law with Hon. E. B. Chandler, to whom he was articulated in February, 1842.

The late Sir Albert J. Smith was a fellow student.

He was admitted to the Bar of Nova Scotia in 1846, and in the same year to the Bar of New Brunswick, thus being at the present time one of the oldest living members of the New Brunswick Bar.

In 1867 he was created a Queen's Counsel. For over

thirty years he practiced his profession, and rose to prominence as one of the ablest lawyers of his time, winning laurels both in Provincial and in higher Courts, where his contentions were almost invariably sustained. He figured as counsel in many important criminal cases, and in these, as well as in dealing with questions of commercial law, proved a most formidable antagonist at the bar. For several years he was President of the Barristers' Society of New Brunswick. Mr. Palmer also engaged actively for many years in the political contests of the time. He was a strong advocate of confederation, and was twice a candidate in Westmorland County in the Confederate interest. He was unsuccessful then, and was also defeated in 1870, when he ran in St. John as a candidate for the legislature; but in 1872 he was elected as one of the representatives of St. John in the Parliament of Canada, retaining the seat until 1878.

Mr. Palmer, in 1872, when a resident of St. John only five years, was elected to the Dominion Parliament as a supporter of Sir John A. McDonald's government, and in 1874 a second time. From the first he took a prominent part in the debates.

On the creation, 1879, of an additional Judge for the Supreme Court of New Brunswick, the government appointed Mr. Palmer. Beside his claims on the government, his standing at the bar pointed him out as the one for the Equity Judgeship.

The acceptance of a seat on the bench to Mr. Palmer was a great pecuniary loss, as his income from the bar was far beyond the salary of a Judge.

From the year 1850 to the time he took his seat on the bench in 1879, nearly 30 years, he probably was the foremost lawyer in the Province, and was employed in nearly all the cases of any importance that came before the Courts.

If we look through the reports of the Supreme Court during that period, the enormous legal work he did can be seen. Although he took a prominent part in politics, he was most at home in the Courts of his native Province, where his presence was a power. His biography would be the legal history of the Province during his time. For 30 years he was not only engaged in about all cases of importance, but his was the principal figure in the contests, for while he was never considered a great orator, his knowledge of law and business lent powerful influence to his arguments with both Court and jury, and his success was marvellous. Since he assumed the office of Judge he has displayed a breadth of legal knowledge and an ability to deal with the most intricate points of law that have won for him a place among the ablest of Canadian jurists.

Such has been his success as a Judge that it may be truly said that he has out of the old cumbersome and dilatory Court of Chancery created the most useful, expeditious, and popular Court in the Province, which has absorbed the greatest part of the legal business of the country.

Mr. Justice Palmer is well-known and highly respected by many of the leading jurists of the neighboring Republic, and doubtless not the less so because of the fearless manner in which on various public occasions in that country he has upheld the honor of Canada and the Empire, and the memory of the Loyalist founders of his native Province, from whom he is himself descended. Despite his advanced age, Judge Palmer is in full possession of bodily vigor and the keen faculties of mind that have made him so long a man of mark among his fellows.

In 1850 he married Martha Ann, daughter of Andrew Weldon, Esq., by whom he had three children, one son, who died in infancy, a daughter, Fannie E., who resides with her father, and Charles Arthur, who is a leading barrister and

Queen's Counsel, residing and practicing at Saint John. She died November, 1892. On December 14th, 1886, he married Miss Amelia Ray Bent, youngest daughter of Gilbert Bent, Esq., of Saint John, his present wife.

He resides in St. John. Palmer's chambers, Princess street, containing the law library, lawyers' offices, and the Equity Court room, was erected by him in 1878.

He takes a deep interest in international questions, as well as medical jurisprudence, and is a prominent member of the Medico-Legal Society of New York, of which Society he has been for some years the Vice-President for New Brunswick. He frequently attends the sessions of that body in New York, when he has on several occasions presided, and where he has many friends.



## MAGAZINES.

THE LITERARY DIGEST. Funk & Wagnells. Weekly. (N. Y.)

This is the most helpful publication for editorial workers that comes to our hands. No matter what topic you want, it turns up here. It is an ever recurring encyclopædia.

THE AMERICAN JOURNAL OF PSYCHOLOGY. Prof. G. Stanley Hall, editor, Worcester, Mass.

Prof. Jastrow, of the University of Wisconsin, continued his very interesting Review of Contemporaneous Literature on Hypnotism and Suggestion.

In April, number, 1892, is a very interesting series of experiments by the same writer, entitled, "A Study of Involuntary Movements," illustrated by diagrams.

This journal keeps well abreast of psychological studies, and is in the front rank.

Prof. G. Stanley Hall is devoted to the study of psychology, and it occupies the widest domain of scientific inquiry.

REVUE DE L' HYPNOTISME. Editor-in-chief, Edgar Berillon, Paris.

Recognizing hypnotism as a science, this journal aims to be the organ of its scientific investigation upon the European Continent. His corps of co-laboratory editors includes distinguished names in every capital of Europe. It is the organ of the French Society of Hypnotism and Psychology.

BULLETIN OF THE SOCIETY OF MENTAL MEDICINE OF BELGIUM. The December number, 1892, is on our table.

At the annual meeting of the Society of Mental Medicine held at Brussels, the President, Dr. Masius, in the chair, Dr. Xav Francotte, Professor of the University of Liege, was elected Vice-President of the Society; Dr. Jules Morel was re-elected Secretary and Treasurer by acclamation; Drs. Cuyllits and Peeters were unanimously re-elected as members of the Governing Committee.

This number contains original articles by Prof. X. Francotte, Dr. Leon de Rode, J. Massaut, Chief of Clinic at the University of Liege.

The contributions of Dr. Seglas, Dr. Koch, and Dr. Rene Semelaigne were analyzed by Prof. Francotte, Dr. Leon de Rode, and Dr. Peeters, and their reports given to the Society.

Large space is given to reviews of journals—English, French, German, and from other countries.

THE RAILWAY AGE is a weekly journal published at Chicago, under the editorship of Harry P. Robinson, Horace R. Hobart, and Walter D. Crosman. Its interest to our readers is in its law department, under the editorial

charge of Frank H. Clark, Esq., of the Chicago bar, and its department of railway surgery, under the editorial charge of Dr. R. Harvey Reed.

On general railway news and in all branches and departments of railway interests the journal is admirably conducted.

**NEW JERSEY LAW JOURNAL.** This journal is a monthly published by the New Jersey Law Journal Publishing Company at Plainfield, N. J. Its editors are Edward Q. Keasby and Charles L. Borgmeyer, who reside at Newark.

The journal is occasionally illustrated by portraits of eminent men of the New Jersey bench and bar.

Its editorial notes are of interest, it keeps apace with current legal discussions in that State, and each number contains original articles of merit.

Volume 15, being the issue of 1892, contains portraits of ex-Chancellor Runyan, Hon. John P. Stockton, Samuel H. Grey, Esq., of South Jersey, Hon. A. Q. Keasby, and Abraham V. Schenck. Among the contributors were Francis B. Lee, Esq., E. Q. Keasby, Ralph Stone, Joseph C. Clayton, Eugene F. Law, and James D. Bell.

Its subscription price is \$3 per annum.

**THE METROPOLIS.** Weekly. New York City.

William G. McLaughlin prints in large letters at the head of this journal, which he conducts so ably: "An Absolutely Independent Newspaper."

It seems to me to come nearer being so than any other journal in New York City.

The leader, March 18th, revives the old religious war-cry of "Catholics and Protestants."

It is a strange story of how Mr. Blaine acquired that enormous hold upon Roman Catholic support that was known and read of all men when he lived.

There are two elements that contribute to the rare excellence of this journal—independence and brains. Among the thousands of journals offered nowadays, I always read the METROPOLIS, and always with pleasure.

The brainiest men in New York journalism are contributors to its columns.

McLaughlin has the rare merit of not only keenly watching the drift of public affairs, of having his own ideas presented with marvellous strength, but no publisher has keener appreciation of, or insight regarding, journalistic ability than has he, nor greater success in capturing and utilizing it.

**PROCEEDINGS OF THE SOCIETY FOR PSYCHICAL RESEARCH.** Part xxii, Vol. viii. July, 1892. Kegan Paul Trench Truhue and Company, London.

The London Society of Psychical Research publish for its members and keep on sale the proceedings, and this number is pages 169 to 411 of that series of solid matter in small type. The number contains articles:

1. By F. W. H. Myers, one of its Honorary Secretaries, entitled, "On Indications of Continual Terrene Knowledge on the Part of Phantasms of the Dead."

2. By Richard Hodgson, J.L. D., on "Mr. Davey's Imitations by Con-juring of Phenomena Sometimes Attributed to Spirit Agency."

3. "Record of a Haunted Home," by Mrs. R. C. Merton.

4. "The Subliminal Consciousness," by F. W. H. Myers.

5. "Further Information as to Dr. Backnuras' Experiments in Clair-voyance."

The large volume is filled in all the articles by statements from others of alleged facts, concerning which the JOURNAL announces: "The Responsibility for Both the Facts and the Reasonings in Papers Published in the Proceedings Rests Entirely with the Authors."

NORTH AMERICAN REVIEW. Lloyd Bryce, editor. February, 1893.

Madame Adam, of Paris, contributes an interesting paper on "The Criminal Law in France."

INJURIES TO THE HEAD, WITH BRAIN LESIONS. (1893.) By Charles Phelps, M. D.

Dr. Phelps has made a valuable contribution, clinico pathological in character, to lesions of the brain substance by injuries of the head. The monograph, of 100 pages, is an analysis of 124 cases, nearly all unreported in his recent hospital practice. The value of such a work in study of cases of this kind is apparent. The clinical reports, data, and analysis are carefully made.

BULLETIN DE L' UNION INTERNATIONALE DE DROIT PENAL. Vol. 4, Part 1. February, 1893. J. Guttentag, Berlin.

This number contains the Statutes of the International Union of Criminal Law, a list of the present members, and a resume of the transactions at Brussels in August, 1892, held on the occasion of the Belgian Congress of Anthropology, at which a reunion of the Association was arranged, to be held in 1893 in France, in August or September, the date not being fixed.

Some general propositions were arranged for general and preparatory discussion at that session, among which were:

Suspension of sentence in criminal cases, upon which Mr. Z. R. Brockway, Superintendent of the Elmira Reformatory; G. A. VanHamel, Treasurer of the Union, and Prof. Prins, the President, were named to report; also an amendment to the statutes to elect the officers for two years instead of one, increasing the committee to four instead of three members, and arranging the national committees on a different basis.

The BULLETIN contains also the work of the national sub-groups of the Union, their officers and labors, for Germany, Norway, and Belgium.

A report of the Foundation Holtzendorff is made, and Dr. Loeffler, of Halle, makes a communication on Conditional Sentences of Criminals.

M. B. Getz (Rigsadvokal), of Christiania, submits the project of a law upon the same subject, and a copy of the official letter of Jules le Jeune, the Belgian Minister of Justice, of the 20th of September, 1892, to the

Procureur General of that Kingdom, giving official construction to the Belgian law of May, 1888, upon this subject, which was issued to govern the Belgian tribunals and officials in the administration there of criminal law.

EXCHANGES. We receive a large number of journals requesting exchanges, with whom we cannot exchange because we cannot utilize or read them all. Journals purely medical we cannot find time to read or review.

We will, however, send the MEDICO-LEGAL JOURNAL to any journal desiring to exchange if our journal is noticed, or a notice of the volume, "The Supreme Court of the States and Provinces of North America," is noticed, and a marked copy sent to the editor of this journal.

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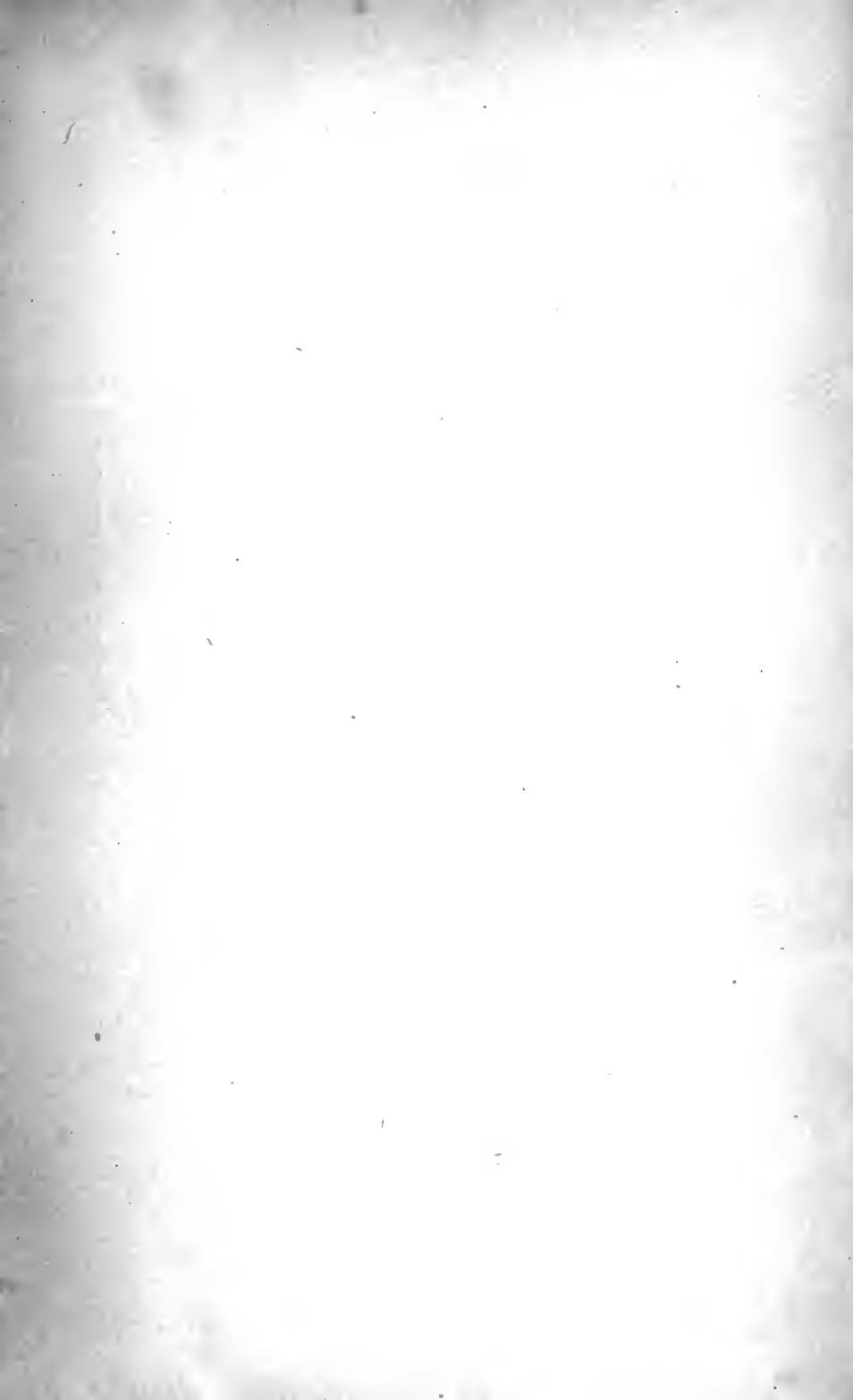
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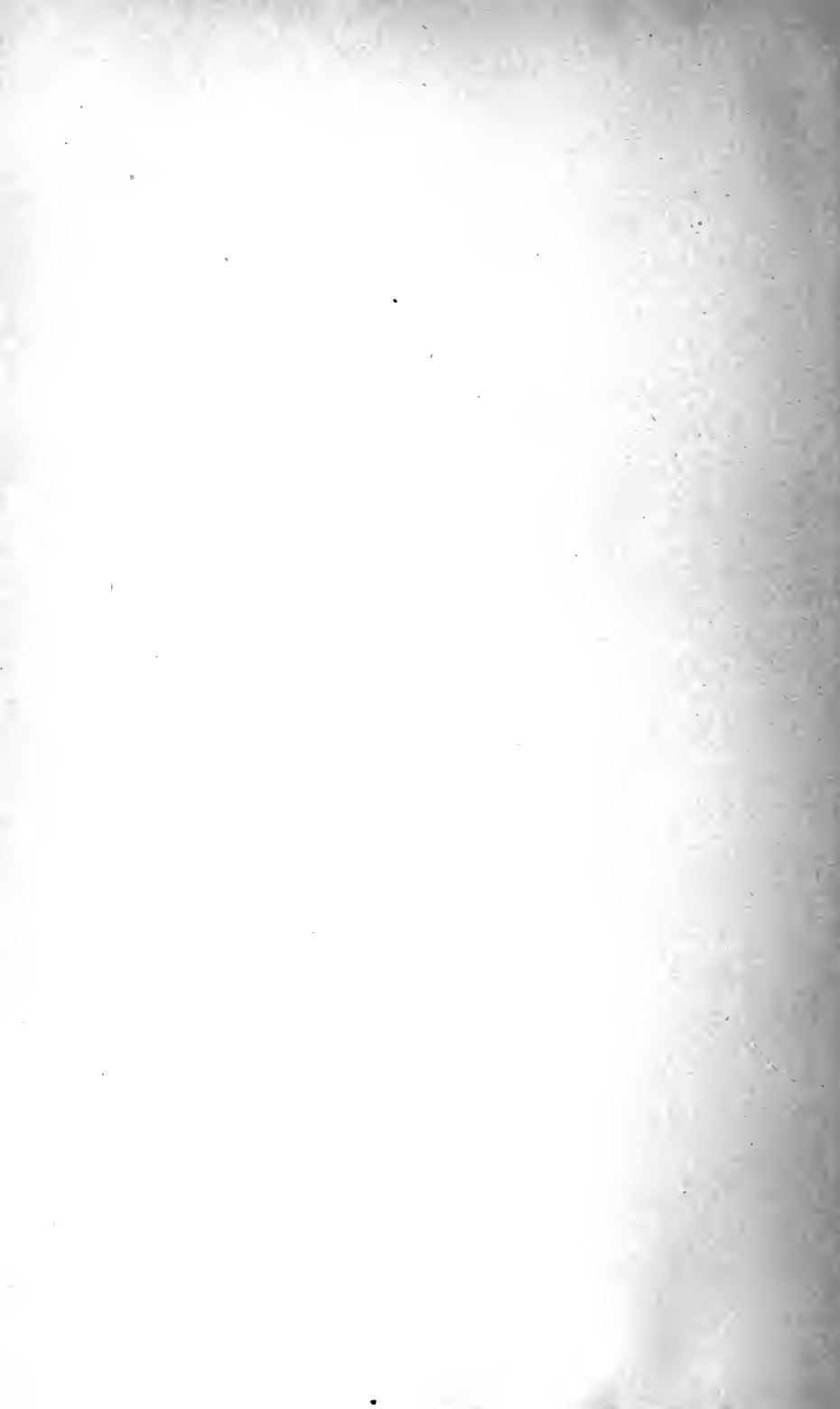
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